

AMENDED IN ASSEMBLY JUNE 26, 2003

AMENDED IN ASSEMBLY JUNE 9, 2003

AMENDED IN SENATE APRIL 21, 2003

## SENATE BILL

No. 851

**Introduced by Committee on Public Safety (Senators McPherson  
(Chair), Burton, Margett, Romero, Sher, and Vasconcellos)**

February 21, 2003

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An act to amend Section 44010 of the Education Code, to amend Section 917 of the Evidence Code, to amend Section 6250 of the Family Code, to amend Section 6254.24 of the Government Code, to amend Sections 11561 and 121070 of the Health and Safety Code, to amend Sections 171.5, 629.62, 633, 803, 830.31, 836, 847, 981, 1170.11, 1202.1, 1203.1abc, 1203.3, 3520, 11171, 12022.5, and 14309 of 12022.53, 13864, and 14309 of, and to repeal Section 13864 of, the Penal Code, to amend Section 14601 of Sections 14601, 23109.2, and 35400 of, to amend and repeal Section 23249 of, and to repeal Section 23249.1 of, the Vehicle Code, and to amend Section 15763 of Sections 355, 387, and 15763 of, and to amend and renumber Section 305.5 of, the Welfare and Institutions Code, relating to public safety.

### LEGISLATIVE COUNSEL'S DIGEST

SB 851, as amended, Committee on Public Safety. Public safety.

(1) Existing law contains numerous provisions pertaining to crime and the implementation of the criminal laws of this state.

This would make numerous, nonsubstantive changes to these provisions.

(2) Existing law provides that the Attorney General, district attorney, or specified other law enforcement officers are not prohibited

from overhearing or recording any communication that they could lawfully overhear or record, prior to the enactment of specified prohibitions on the eavesdropping or recording of specified communications.

This bill would add to the law enforcement officers listed in this provision police officers of the County of Los Angeles.

(3) Under existing law, except as specified, a prescribed limitation of time for certain offenses is not tolled or extended for any reason. Existing law provides that for specified offenses a prescribed limitation of time does not commence to run until the discovery of that offense. This provision is applicable to those offenses punishable by imprisonment in the state prison, a material element of which is fraud or breach of a fiduciary obligation, the commission of the crimes of theft or embezzlement upon an elder or dependent adult, or the basis of which is misconduct in office by a public officer, employee, or appointee, including, but not limited to, specified offenses.

This bill would revise and recast these provisions regarding elder or dependent adults.

(4) Existing law defines certain persons as peace officers, including safety police officers of the County of Los Angeles, who may carry firearms and whose authority extends to any place in the state for the purpose of performing their duties and making arrests, as specified.

This bill would change the reference to police officers of the County of Los Angeles.

(5) Existing law establishes a 5-year pilot program that authorizes the court to require any adult who has been convicted of a nonviolent or nonserious offense to participate in a program designed to assist the person in obtaining the equivalent of a 12th grade education as a condition of probation. This program is operable only upon approval of a county's board of supervisors. Existing law also authorizes the court to require a probationer to participate in a literacy or General Education Development Program. Existing law repeals this program on January 1, 2004, unless it is extended or made permanent by subsequent legislation.

This bill would extend the repeal date of this program to January 1, 2008.

(6) *Existing law generally creates an ignition interlock device program for those people who are convicted of driving under the influence. Under this program, existing law makes it unlawful for any person whose driving privilege is restricted for specified reasons to*



*operate any vehicle not equipped with a functioning ignition interlock device. If a person is convicted of violating this provision, the court is required to notify the Department of Motor Vehicles, which is required to terminate the restriction and suspend or revoke the person's driving privilege, as specified. Existing law also requires the Department of Motor Vehicles to conduct 2 studies to evaluate the effectiveness of ignition interlock in California and requires that the findings be reported to the Legislature, as specified. Existing law repeals these provisions as of January 1, 2005.*

*This bill would delete this repeal date as it relates to the ignition interlock program, and would make it only apply to the studies of ignition interlock devices.*

(7) Existing law requires that each county establish an emergency response adult protective services program. Existing law requires a county to respond immediately to any report of imminent danger to an elder or dependent adult residing in other than a long-term care facility or a residential facility. For reports involving persons residing in a long-term care facility or a residential care facility, the county shall report to the local long-term care ombudsman program, as specified. Except as specified, existing law requires the county to respond to all other reports of danger to an elder or dependent adult in other than a long-term care facility or residential care facility within 10 calendar days or as soon as practicably possible.

This bill would provide that a county shall not be required to report or respond to a report that involves danger to an elder or dependent adult residing in any facility for the incarceration of prisoners that is operated by or under contract to the Federal Bureau of Prisons, the Department of Corrections, the California Department of the Youth Authority, a county sheriff's department, a city police department, or any other law enforcement agency when the abuse reportedly has occurred in that facility.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~—yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. *Section 44010 of the Education Code is*  
2 *amended to read:*



1 44010. “Sex offense,” as used in Sections 44020, 44237,  
2 44346, 44425, 44436, 44836, 45123, and 45304, means any one  
3 or more of the offenses listed below:

4 (a) Any offense defined in Section 220, 261, 261.5, 262, 264.1,  
5 266, 266j, 267, 285, 286, 288, 288a, 289, 311.1, 311.2, 311.3,  
6 311.4, 311.10, 311.11, 313.1, 647b, 647.6, or former Section 647a,  
7 subdivision (a), (b), ~~or (e)~~ (c), or (d) of Section 243.4, or  
8 subdivision (a) or (d) of Section 647 of the Penal Code.

9 (b) Any offense defined in former subdivision (5) of former  
10 Section 647 of the Penal Code repealed by Chapter 560 of the  
11 Statutes of 1961, or any offense defined in former subdivision (2)  
12 of former Section 311 of the Penal Code repealed by Chapter 2147  
13 of the Statutes of 1961, if the offense defined in those sections was  
14 committed prior to September 15, 1961, to the same extent that an  
15 offense committed prior to that date was a sex offense for the  
16 purposes of this section prior to September 15, 1961.

17 (c) Any offense defined in Section 314 of the Penal Code  
18 committed on or after September 15, 1961.

19 (d) Any offense defined in former subdivision (1) of former  
20 Section 311 of the Penal Code repealed by Chapter 2147 of the  
21 Statutes of 1961 committed on or after September 7, 1955, and  
22 prior to September 15, 1961.

23 (e) Any offense involving lewd and lascivious conduct under  
24 Section 272 of the Penal Code committed on or after September  
25 15, 1961.

26 (f) Any offense involving lewd and lascivious conduct under  
27 former Section 702 of the Welfare and Institutions Code repealed  
28 by Chapter 1616 of the Statutes of 1961, if that offense was  
29 committed prior to September 15, 1961, to the same extent that an  
30 offense committed prior to that date was a sex offense for the  
31 purposes of this section prior to September 15, 1961.

32 (g) Any offense defined in Section 286 or 288a of the Penal  
33 Code prior to the effective date of the amendment of either section  
34 enacted at the 1975–76 Regular Session of the Legislature  
35 committed prior to the effective date of the amendment.

36 (h) Any attempt to commit any of the offenses specified in this  
37 section.

38 (i) Any offense committed or attempted in any other state or  
39 against the laws of the United States which, if committed or

1 attempted in this state, would have been punishable as one or more  
2 of the offenses specified in this section.

3 (j) Any conviction for an offense resulting in the requirement  
4 to register as a sex offender pursuant to Section 290 of the Penal  
5 Code.

6 (k) Commitment as a mentally disordered sex offender under  
7 former Article 1 (commencing with Section 6300) of Chapter 2 of  
8 Part 2 of the Welfare and Institutions Code, as repealed by Chapter  
9 928 of the Statutes of 1981.

10 *SEC. 2. Section 917 of the Evidence Code is amended to read:*

11 917. (a) Whenever a privilege is claimed on the ground that  
12 the matter sought to be disclosed is a communication made in  
13 confidence in the course of the lawyer-client, physician-patient,  
14 psychotherapist-patient, clergyman-penitent, husband-wife,  
15 sexual assault victim-counselor, or domestic violence  
16 victim-counselor relationship, the communication is presumed to  
17 have been made in confidence and the opponent of the claim of  
18 privilege has the burden of proof to establish that the  
19 communication was not confidential.

20 (b) A communication between persons in a relationship listed  
21 in subdivision (a) does not lose its privileged character for the sole  
22 reason that it is communicated by electronic means or because  
23 persons involved in the delivery, facilitation, or storage of  
24 electronic communication may have access to the content of the  
25 communication.

26 (c) For purposes of this section, “electronic” has the same  
27 meaning provided in Section 1633.2 of the Civil Code.

28 ~~SEC. 1.5.~~

29 *SEC. 3. Section 6250 of the Family Code is amended to read:*

30 6250. A judicial officer may issue an ex parte emergency  
31 protective order where a law enforcement officer asserts  
32 reasonable grounds to believe any of the following:

33 (a) That a person is in immediate and present danger of  
34 domestic violence, based on the person’s allegation of a recent  
35 incident of abuse or threat of abuse by the person against whom the  
36 order is sought.

37 (b) That a child is in immediate and present danger of abuse by  
38 a family or household member, based on an allegation of a recent  
39 incident of abuse or threat of abuse by the family or household  
40 member.

1 (c) That a child is in immediate and present danger of being  
2 abducted by a parent or relative, based on a reasonable belief that  
3 a person has an intent to abduct the child or flee with the child from  
4 the jurisdiction or based on an allegation of a recent threat to  
5 abduct the child or flee with the child from the jurisdiction.

6 (d) That an elder or dependent adult is in immediate and present  
7 danger of abuse as defined in Section 15610.07 of the Welfare and  
8 Institutions Code, based on an allegation of a recent incident of  
9 abuse or threat of abuse by the person against whom the order is  
10 sought, except that no emergency protective order shall be issued  
11 based solely on an allegation of financial abuse.

12 *SEC. 4. Section 6254.24 of the Government Code is amended*  
13 *to read:*

14 6254.24. As used in this chapter, “public safety official”  
15 means the following:

16 (a) An active or retired peace officer as defined in Sections 830  
17 and 830.1 of the Penal Code.

18 (b) An active or retired public officer or other person listed in  
19 Sections 1808.2 and 1808.6 of the Vehicle Code.

20 (c) An “elected or appointed official” as defined in subdivision  
21 ~~(b)~~ (c) of Section 6254.21.

22 (d) Attorneys employed by the Department of Justice, the State  
23 Public Defender, or a county office of the district attorney or public  
24 defender.

25 (e) City attorneys and attorneys who represent cities in criminal  
26 matters.

27 (f) Specified employees of the Department of Corrections, the  
28 California Youth Authority, and the Prison Industry Authority  
29 who supervise inmates or are required to have a prisoner in their  
30 care or custody.

31 (g) Nonsworn employees who supervise inmates in a city  
32 police department, a county sheriff’s office, the Department of the  
33 California Highway Patrol, federal, state, and local detention  
34 facilities, and local juvenile halls, camps, ranches, and homes.

35 (h) Federal prosecutors and criminal investigators and  
36 National Park Service Rangers working in California.

37 (i) The surviving spouse or child of a peace officer defined in  
38 Section 830 of the Penal Code, if the peace officer died in the line  
39 of duty.



1     *SEC. 5. Section 11561 of the Health and Safety Code is*  
2     *amended to read:*

3     11561. When the parole authority concludes that there are  
4     reasonable grounds for believing that a ~~man~~ *person* on parole is  
5     addicted or habituated to, or is in imminent danger of addiction or  
6     habituation to, controlled substances or alcohol, it may, in  
7     accordance with procedures used to revoke parole, issue an order  
8     to detain or place the person in a substance abuse treatment control  
9     unit for a period not to exceed 90 days. The order shall be a  
10    sufficient warrant for any peace officer or employee of the  
11    Department of Corrections to return the person to physical custody  
12    . Detention pursuant to the order shall not be deemed a suspension,  
13    cancellation, or revocation of parole until such time as the parole  
14    authority so orders pursuant to Section 3060 of the Penal Code. A  
15    parolee taken into physical custody pursuant to Section 3060 of the  
16    Penal Code may be detained in a substance abuse treatment control  
17    unit established pursuant to this article.

18    No ~~man~~ *person* on parole shall be placed in a ~~substantive~~  
19    *substance* abuse treatment control unit against his *or her* will.

20    *SEC. 6. Section 121070 of the Health and Safety Code is*  
21    *amended to read:*

22    121070. (a) Any medical personnel employed by, under  
23    contract to, or receiving payment from the State of California, any  
24    agency thereof, or any county, city, or city and county to provide  
25    service at any state prison, the Medical Facility, any Youth  
26    Authority institution, any county jail, city jail, hospital jail ward,  
27    juvenile hall, juvenile detention facility, or any other facility where  
28    adults are held in custody or minors are detained, or any medical  
29    personnel employed, under contract, or receiving payment to  
30    provide services to persons in custody or detained at any of the  
31    foregoing facilities, who receives information as specified herein  
32    that an inmate or minor at the facility has been exposed to or  
33    infected by the AIDS virus or has an AIDS-related condition or  
34    any communicable disease, shall communicate the information to  
35    the officer in charge of the facility where the inmate or minor is in  
36    custody or detained.

37    (b) Information subject to disclosure under subsection (a) shall  
38    include the following: any laboratory test that indicates exposure  
39    to or infection by the AIDS virus, AIDS-related condition, or other  
40    communicable diseases; any statement by the inmate or minor to



1 medical personnel that he or she has AIDS or an AIDS-related  
2 condition, has been exposed to the AIDS virus, or has any  
3 communicable disease; the results of any medical examination or  
4 test that indicates that the inmate or minor has tested positive for  
5 antibodies to the AIDS virus, has been exposed to the AIDS virus,  
6 has an AIDS-related condition, or is infected with AIDS or any  
7 communicable disease; provided, that information subject to  
8 disclosure shall not include information communicated to or  
9 obtained by a scientific research study pursuant to prior written  
10 approval expressly waiving disclosure under this section by the  
11 officer in charge of the facility.

12 (c) The officer in charge of the facility shall notify all  
13 employees, medical personnel, contract personnel, and volunteers  
14 providing services at the facility who have or may have direct  
15 contact with the inmate or minor in question, or with bodily fluids  
16 from the inmate or minor, of the substance of the information  
17 received under subsections (a) and (b) so that those persons can  
18 take appropriate action to provide for the care of the inmate or  
19 minor, the safety of other inmates or minors, and their own safety.

20 (d) The officer in charge and all persons to whom information  
21 is disclosed pursuant to this section shall maintain the  
22 confidentiality of personal identifying data regarding the  
23 information, except for disclosure authorized hereunder or as may  
24 be necessary to obtain medical or psychological care or ~~advise~~  
25 *advice*.

26 (e) Any person who wilfully discloses personal identifying  
27 data regarding information obtained under this section to any  
28 person who is not a peace officer or an employee of a federal, state,  
29 or local public health agency, except as authorized hereunder, by  
30 court order, with the written consent of the patient or as otherwise  
31 authorized by law, is guilty of a misdemeanor.

32 *SEC. 7.* Section 171.5 of the Penal Code is amended to read:

33 171.5. (a) For purposes of this section:

34 (1) “Airport” means an airport, with a secured area, that  
35 regularly serves an air carrier holding a certificate issued by the  
36 United States Secretary of Transportation.

37 (2) “Sterile area” means a portion of an airport defined in the  
38 airport security program to which access generally is controlled  
39 through the screening of persons and property, as specified in  
40 Section 1540.5 of Title 49 of the Code of Federal Regulations.



1 (b) It is unlawful for any person to knowingly possess within  
2 any sterile area of an airport, any of the items listed in subdivision  
3 (c).

4 (c) The following items are unlawful to possess as provided in  
5 subdivision (b):

6 (1) Any firearm.

7 (2) Any knife with a blade length in excess of four inches, the  
8 blade of which is fixed, or is capable of being fixed, in an  
9 unguarded position by the use of one or two hands.

10 (3) Any box cutter or straight razor.

11 (4) Any metal military practice hand grenade.

12 (5) Any metal replica hand grenade.

13 (6) Any plastic replica hand grenade.

14 (7) Any imitation firearm as defined in Section 417.4.

15 (8) Any frame, receiver, barrel, or magazine of a firearm.

16 (9) Any unauthorized tear gas weapon.

17 (10) Any taser or stun gun, as defined in Section 244.5.

18 (11) Any instrument that expels a metallic projectile, such as a  
19 BB or pellet, through the force of air pressure, CO<sub>2</sub> pressure, or  
20 spring action, or any spot marker gun or paint gun.

21 (12) Any ammunition as defined in Section 12316.

22 (d) Subdivision (b) shall not apply to, or affect, any of the  
23 following:

24 (1) A duly appointed peace officer, as defined in Chapter 4.5  
25 (commencing with Section 830) of Title 3 of Part 2, a retired peace  
26 officer with authorization to carry concealed weapons as described  
27 in subdivision (a) of Section 12027, a full-time paid peace officer  
28 of another state or the federal government who is carrying out  
29 official duties while in California, or any person summoned by any  
30 of these officers to assist in making arrests or preserving the peace  
31 while he or she is actually engaged in assisting the officer.

32 (2) A person who has authorization to possess a weapon  
33 specified in subdivision (c), granted in writing by an airport  
34 security coordinator who is designated as specified in Section  
35 1542.3 of Title 49 of the Code of Federal Regulations, and who is  
36 responsible for the security of the airport.

37 (e) A violation of this section is punishable by imprisonment in  
38 a county jail for a period not exceeding six months, or by a fine not  
39 exceeding one thousand dollars (\$1,000), or by both that fine and  
40 imprisonment.

(f) The provisions of this section are cumulative, and shall not be construed as restricting the application of any other law. However, an act or omission that is punishable in different ways by this and any other provision of law shall not be punished under more than one provision.

(g) Nothing in this section is intended to affect existing state or federal law regarding the transportation of firearms on airplanes in checked luggage, or the possession of the items listed in subdivision (c) in areas that are not “sterile areas.”

~~SEC. 2.~~

SEC. 8. Section 629.62 of the Penal Code is amended to read:

629.62. (a) The Attorney General shall prepare and submit an annual report to the Legislature, the Judicial Council, and the Director of the Administrative Office of the United States Court on interceptions conducted under the authority of this chapter during the preceding year. Information for this report shall be provided to the Attorney General by any prosecutorial agency seeking an order pursuant to this chapter.

(b) The report shall include all of the following data:

(1) The number of orders or extensions applied for.

(2) The kinds of orders or extensions applied for.

(3) The fact that the order or extension was granted as applied for, was modified, or was denied.

(4) The number of wire, electronic pager, and electronic cellular telephone devices that are the subject of each order granted.

(5) The period of interceptions authorized by the order, and the number and duration of any extensions of the order.

(6) The offense specified in the order or application, or extension of an order.

(7) The identity of the applying law enforcement officer and agency making the application and the person authorizing the application.

(8) The nature of the facilities from which or the place where communications were to be intercepted.

(9) A general description of the interceptions made under the order or extension, including (A) the approximate nature and frequency of incriminating communications intercepted, (B) the approximate nature and frequency of other communications intercepted, (C) the approximate number of persons whose

1 communications were intercepted, and (D) the approximate  
2 nature, amount, and cost of the manpower and other resources used  
3 in the interceptions.

4 (10) The number of arrests resulting from interceptions made  
5 under the order or extension, and the offenses for which arrests  
6 were made.

7 (11) The number of trials resulting from the interceptions.

8 (12) The number of motions to suppress made with respect to  
9 the interceptions, and the number granted or denied.

10 (13) The number of convictions resulting from the  
11 interceptions and the offenses for which the convictions were  
12 obtained and a general assessment of the importance of the  
13 interceptions.

14 (14) Except with regard to the initial report required by this  
15 section, the information required by paragraphs (9) to (13),  
16 inclusive, with respect to orders or extensions obtained in a  
17 preceding calendar year.

18 (15) The date of the order for service of inventory made  
19 pursuant to Section 629.68, confirmation of compliance with the  
20 order, and the number of notices sent.

21 (16) Other data that the Legislature, the Judicial Council, or the  
22 Director of the Administrative Office shall require.

23 (c) The annual report shall be filed no later than April of each  
24 year, and shall also include a summary analysis of the data reported  
25 pursuant to subdivision (b). The Attorney General may issue  
26 regulations prescribing the content and form of the reports  
27 required to be filed pursuant to this section by any prosecutorial  
28 agency seeking an order to intercept wire, electronic pager, or  
29 electronic cellular telephone communications.

30 (d) The Attorney General shall, upon the request of an  
31 individual making an application, provide any information known  
32 to him or her as a result of these reporting requirements that would  
33 enable the individual making an application to comply with  
34 paragraph (6) of subdivision (a) of Section 629.50.

35 ~~SEC. 3.~~

36 *SEC. 9.* Section 633 of the Penal Code is amended to read:

37 633. Nothing in Section 631, 632, 632.5, 632.6, or 632.7  
38 prohibits the Attorney General, any district attorney, or any  
39 assistant, deputy, or investigator of the Attorney General or any  
40 district attorney, any officer of the California Highway Patrol, any

1 chief of police, assistant chief of police, or police officer of a city  
2 or city and county, any sheriff, undersheriff, or deputy sheriff  
3 regularly employed and paid in that capacity by a county, police  
4 officer of the County of Los Angeles, or any person acting  
5 pursuant to the direction of one of these law enforcement officers  
6 acting within the scope of his or her authority, from overhearing  
7 or recording any communication that they could lawfully overhear  
8 or record prior to the effective date of this chapter.

9 Nothing in Section 631, 632, 632.5, 632.6, or 632.7 renders  
10 inadmissible any evidence obtained by the above-named persons  
11 by means of overhearing or recording any communication that  
12 they could lawfully overhear or record prior to the effective date  
13 of this chapter.

14 ~~SEC. 4.~~

15 *SEC. 10.* Section 803 of the Penal Code is amended to read:

16 803. (a) Except as provided in this section, a limitation of  
17 time prescribed in this chapter is not tolled or extended for any  
18 reason.

19 (b) No time during which prosecution of the same person for  
20 the same conduct is pending in a court of this state is a part of a  
21 limitation of time prescribed in this chapter.

22 (c) A limitation of time prescribed in this chapter does not  
23 commence to run until the discovery of an offense described in this  
24 subdivision. This subdivision applies to an offense punishable by  
25 imprisonment in the state prison, a material element of which is  
26 fraud or breach of a fiduciary obligation, or the basis of which is  
27 misconduct in office by a public officer, employee, or appointee,  
28 or to theft or embezzlement from an elder or dependent adult  
29 punishable by imprisonment in the state prison, including, but not  
30 limited to, the following offenses:

31 (1) Grand theft of any type, forgery, falsification of public  
32 records, or acceptance of a bribe by a public official or a public  
33 employee.

34 (2) A violation of Section 72, 118, 118a, 132, or 134.

35 (3) A violation of Section 25540, of any type, or Section 25541  
36 of the Corporations Code.

37 (4) A violation of Section 1090 or 27443 of the Government  
38 Code.

39 (5) Felony welfare fraud or Medi-Cal fraud in violation of  
40 Section 11483 or 14107 of the Welfare and Institutions Code.

(6) Felony insurance fraud in violation of Section 548 or 550 of this code or former Section 1871.1, or Section 1871.4, of the Insurance Code.

(7) A violation of Section 580, 581, 582, 583, or 584 of the Business and Professions Code.

(8) A violation of Section 22430 of the Business and Professions Code.

(9) A violation of Section 10690 of the Health and Safety Code.

(10) A violation of Section 529a.

(11) A violation of subdivision (d) or (e) of Section 368.

(d) If the defendant is out of the state when or after the offense is committed, the prosecution may be commenced as provided in Section 804 within the limitations of time prescribed by this chapter, and no time up to a maximum of three years during which the defendant is not within the state shall be a part of those limitations.

(e) A limitation of time prescribed in this chapter does not commence to run until the offense has been discovered, or could have reasonably been discovered, with regard to offenses under Division 7 (commencing with Section 13000) of the Water Code, under Chapter 6.5 (commencing with Section 25100) of, Chapter 6.7 (commencing with Section 25280) of, or Chapter 6.8 (commencing with Section 25300) of, Division 20 of, or Part 4 (commencing with Section 41500) of Division 26 of, the Health and Safety Code, or under Section 386, or offenses under Chapter 5 (commencing with Section 2000) of Division 2 of, Chapter 9 (commencing with Section 4000) of Division 2 of, Chapter 10 (commencing with Section 7301) of Division 3 of, or Chapter 19.5 (commencing with Section 22440) of Division 8 of, the Business and Professions Code.

(f) (1) Notwithstanding any other limitation of time described in this chapter, a criminal complaint may be filed within one year of the date of a report to a responsible adult or agency by a child under 18 years of age that the child is a victim of a crime described in Section 261, 286, 288, 288a, 288.5, 289, or 289.5.

(2) For purposes of this subdivision, a “responsible adult” or “agency” means a person or agency required to report pursuant to Section 11166. This subdivision applies only if both of the following occur:

1 (A) The limitation period specified in Section 800 or 801 has  
2 expired.

3 (B) The defendant has committed at least one violation of  
4 Section 261, 286, 288, 288a, 288.5, 289, or 289.5 against the same  
5 victim within the limitation period specified for that crime in either  
6 Section 800 or 801.

7 (3) (A) This subdivision applies to a cause of action arising  
8 before, on, or after January 1, 1990, the effective date of this  
9 subdivision, and it shall revive any cause of action barred by  
10 Section 800 or 801 if any of the following occurred or occurs:

11 (i) The complaint or indictment was filed on or before January  
12 1, 1997, and it was filed within the time period specified in this  
13 subdivision.

14 (ii) The complaint or indictment is or was filed subsequent to  
15 January 1, 1997, and it is or was filed within the time period  
16 specified within this subdivision.

17 (iii) The victim made the report required by this subdivision to  
18 a responsible adult or agency after January 1, 1990, and a  
19 complaint or indictment was not filed within the time period  
20 specified in this subdivision, but a complaint or indictment is filed  
21 no later than 180 days after the date on which either a published  
22 opinion of the California Supreme Court, deciding whether  
23 retroactive application of this section is constitutional, becomes  
24 final or the United States Supreme Court files an opinion deciding  
25 the question of whether retroactive application of this subdivision  
26 is constitutional, whichever occurs first.

27 (iv) The victim made the report required by this subdivision to  
28 a responsible adult or agency after January 1, 1990, and a  
29 complaint or indictment was filed within the time period specified  
30 in this subdivision, but the indictment, complaint, or subsequently  
31 filed information was dismissed, but a new complaint or  
32 indictment is or was filed no later than 180 days after the date on  
33 which either a published opinion of the California Supreme Court,  
34 deciding whether retroactive application of this section is  
35 constitutional, becomes final or the United States Supreme Court  
36 files an opinion deciding the question of whether retroactive  
37 application of this subdivision is constitutional, whichever occurs  
38 first.

39 (B) (i) If the victim made the report required by this  
40 subdivision to a responsible adult or agency after January 1, 1990,

1 and a complaint or indictment was filed within the time period  
2 specified in this subdivision, but the indictment, complaint, or  
3 subsequently filed information was dismissed, a new complaint or  
4 indictment may be filed notwithstanding any other provision of  
5 law, including, but not limited to, subdivision (c) of Section 871.5  
6 and subdivision (b) of Section 1238.

7 (ii) An order dismissing an action filed under this subdivision,  
8 which is entered or becomes effective at any time prior to 180 days  
9 after the date on which either a published opinion of the California  
10 Supreme Court, deciding the question of whether retroactive  
11 application of this section is constitutional, becomes final or the  
12 United States Supreme Court files an opinion deciding the  
13 question of whether retroactive application of this subdivision is  
14 constitutional, whichever occurs first, shall not be considered an  
15 order terminating an action within the meaning of Section 1387.

16 (iii) Any ruling regarding the retroactivity of this subdivision  
17 or its constitutionality made in the course of the previous  
18 proceeding, including any review proceeding, shall not be binding  
19 upon refiling.

20 (g) (1) Notwithstanding any other limitation of time described  
21 in this chapter, a criminal complaint may be filed within one year  
22 of the date of a report to a California law enforcement agency by  
23 a person of any age alleging that he or she, while under the age of  
24 18 years, was the victim of a crime described in Section 261, 286,  
25 288, 288a, 288.5, 289, or 289.5.

26 (2) This subdivision applies only if both of the following occur:

27 (A) The limitation period specified in Section 800 or 801 has  
28 expired.

29 (B) The crime involved substantial sexual conduct, as  
30 described in subdivision (b) of Section 1203.066, excluding  
31 masturbation that is not mutual, and there is independent evidence  
32 that clearly and convincingly corroborates the victim's allegation.  
33 No evidence may be used to corroborate the victim's allegation  
34 that otherwise would be inadmissible during trial. Independent  
35 evidence does not include the opinions of mental health  
36 professionals.

37 (3) (A) This subdivision applies to a cause of action arising  
38 before, on, or after January 1, 1994, the effective date of this  
39 subdivision, and it shall revive any cause of action barred by  
40 Section 800 or 801 if any of the following occurred or occurs:



1 (i) The complaint or indictment was filed on or before January  
2 1, 1997, and it was filed within the time period specified in this  
3 subdivision.

4 (ii) The complaint or indictment is or was filed subsequent to  
5 January 1, 1997, and it is or was filed within the time period  
6 specified within this subdivision.

7 (iii) The victim made the report required by this subdivision to  
8 a law enforcement agency after January 1, 1994, and a complaint  
9 or indictment was not filed within the time period specified in this  
10 subdivision, but a complaint or indictment is filed no later than 180  
11 days after the date on which either a published opinion of the  
12 California Supreme Court, deciding the question of whether  
13 retroactive application of this subdivision is constitutional,  
14 becomes final or the United States Supreme Court files an opinion  
15 deciding the question of whether retroactive application of this  
16 subdivision is constitutional, whichever occurs first.

17 (iv) The victim made the report required by this subdivision to  
18 a law enforcement agency after January 1, 1994, and a complaint  
19 or indictment was filed within the time period specified in this  
20 subdivision, but the indictment, complaint, or subsequently filed  
21 information was dismissed, but a new complaint or indictment is  
22 filed no later than 180 days after the date on which either a  
23 published opinion of the California Supreme Court, deciding the  
24 question of whether retroactive application of this subdivision is  
25 constitutional, becomes final or the United States Supreme Court  
26 files an opinion deciding the question of whether retroactive  
27 application of this subdivision is constitutional, whichever occurs  
28 first.

29 (B) (i) If the victim made the report required by this  
30 subdivision to a law enforcement agency after January 1, 1994,  
31 and a complaint or indictment was filed within the time period  
32 specified in this subdivision, but the indictment, complaint, or  
33 subsequently filed information was dismissed, a new complaint or  
34 indictment may be filed notwithstanding any other provision of  
35 law, including, but not limited to, subdivision (c) of Section 871.5  
36 and subdivision (b) of Section 1238.

37 (ii) An order dismissing an action filed under this subdivision,  
38 which is entered or becomes effective at any time prior to 180 days  
39 after the date on which either a published opinion of the California  
40 Supreme Court, deciding the question of whether retroactive

1 application of this section is constitutional, becomes final or the  
2 United States Supreme Court files an opinion deciding the  
3 question of whether retroactive application of this subdivision is  
4 constitutional, whichever occurs first, shall not be considered an  
5 order terminating an action within the meaning of Section 1387.

6 (iii) Any ruling regarding the retroactivity of this subdivision  
7 or its constitutionality made in the course of the previous  
8 proceeding, by any trial court or any intermediate appellate court,  
9 shall not be binding upon refiling.

10 (h) (1) Notwithstanding any other limitation of time described  
11 in this chapter, a criminal complaint may be filed within one year  
12 of the date of a report to a California law enforcement agency by  
13 a person under 21 years of age, alleging that he or she, while under  
14 18 years of age, was the victim of a crime described in Section 261,  
15 286, 288, 288a, 288.5, 289, or 289.5.

16 (2) This subdivision applies only if both of the following occur:

17 (A) The limitation period specified in Section 800 or 801 has  
18 expired.

19 (B) The crime involved substantial sexual conduct, as  
20 described in subdivision (b) of Section 1203.066, excluding  
21 masturbation that is not mutual, and there is independent evidence  
22 that corroborates the victim's allegation. No evidence may be used  
23 to corroborate the victim's allegation that otherwise would be  
24 inadmissible during trial. Independent evidence does not include  
25 the opinions of mental health professionals.

26 (3) This subdivision applies to a cause of action arising before,  
27 on, or after January 1, 2002, the effective date of this subdivision,  
28 and it shall revive any cause of action barred by Section 800 or 801  
29 if the complaint or indictment was filed within the time period  
30 specified by this subdivision.

31 (i) (1) Notwithstanding the limitation of time described in  
32 Section 800, the limitations period for commencing prosecution  
33 for a felony offense described in subparagraph (A) of paragraph  
34 (2) of subdivision (a) of Section 290, where the limitations period  
35 set forth in Section 800 has not expired as of January 1, 2001, or  
36 the offense is committed on or after January 1, 2001, shall be 10  
37 years from the commission of the offense, or one year from the  
38 date on which the identity of the suspect is conclusively  
39 established by DNA testing, whichever is later, provided,  
40 however, that the one-year period from the establishment of the

1 identity of the suspect shall only apply when either of the  
2 following conditions is met:

3 (A) For an offense committed prior to January 1, 2001,  
4 biological evidence collected in connection with the offense is  
5 analyzed for DNA type no later than January 1, 2004.

6 (B) For an offense committed on or after January 1, 2001,  
7 biological evidence collected in connection with the offense is  
8 analyzed for DNA type no later than two years from the date of the  
9 offense.

10 (2) In the event the conditions set forth in subparagraph (A) or  
11 (B) of paragraph (1) are not met, the limitations period for  
12 commencing prosecution for a felony offense described in  
13 subparagraph (A) of paragraph (2) of subdivision (a) of Section  
14 290, where the limitations period set forth in Section 800 has not  
15 expired as of January 1, 2001, or the offense is committed on or  
16 after January 1, 2001, shall be 10 years from the commission of the  
17 offense.

18 (3) For purposes of this section, “DNA” means  
19 deoxyribonucleic acid.

20 (j) For any crime, the proof of which depends substantially  
21 upon evidence that was seized under a warrant, but which is  
22 unavailable to the prosecuting authority under the procedures  
23 described in *People v. Superior Court (Laff)* (2001) 25 Cal.4th  
24 703, *People v. Superior Court (Bauman & Rose)* (1995) 37  
25 Cal.App.4th 1757, or subdivision (c) of Section 1524, relating to  
26 claims of evidentiary privilege or attorney work product, the  
27 limitation of time prescribed in this chapter shall be tolled from the  
28 time of the seizure until final disclosure of the evidence to the  
29 prosecuting authority. Nothing in this section otherwise affects the  
30 definition or applicability of any evidentiary privilege or attorney  
31 work product.

32 (k) (1) In a criminal investigation involving child sexual abuse  
33 as described in subdivision (g) or (h), when the limitations period  
34 set forth therein has not expired, that period shall be tolled from  
35 the time a party initiates litigation challenging a grand jury  
36 subpoena until the end of that litigation, including any associated  
37 writ or appellate proceeding, or until the final disclosure of  
38 evidence to the investigating or prosecuting agency, if that  
39 disclosure is ordered pursuant to the subpoena after the litigation.



1 (2) Nothing in this subdivision affects the definition or  
2 applicability of any evidentiary privilege.

3 (3) This subdivision shall not apply where a court finds that the  
4 grand jury subpoena was issued or caused to be issued in bad faith.

5 (l) As used in subdivisions (f), (g), and (h), Section 289.5 refers  
6 to the statute enacted by Chapter 293 of the Statutes of 1991  
7 relating to penetration by an unknown object.

8 ~~SEC. 5.~~

9 *SEC. 11.* Section 830.31 of the Penal Code is amended to read:

10 830.31. The following persons are peace officers whose  
11 authority extends to any place in the state for the purpose of  
12 performing their primary duty or when making an arrest pursuant  
13 to Section 836 as to any public offense with respect to which there  
14 is immediate danger to person or property, or of the escape of the  
15 perpetrator of that offense, or pursuant to Section 8597 or 8598 of  
16 the Government Code. These peace officers may carry firearms  
17 only if authorized, and under the terms and conditions specified,  
18 by their employing agency.

19 (a) A police officer of the County of Los Angeles, if the  
20 primary duty of the officer is the enforcement of the law in or about  
21 properties owned, operated, or administered by his or her  
22 employing agency or when performing necessary duties with  
23 respect to patrons, employees, and properties of his or her  
24 employing agency.

25 (b) A person designated by a local agency as a park ranger and  
26 regularly employed and paid in that capacity, if the primary duty  
27 of the officer is the protection of park and other property of the  
28 agency and the preservation of the peace therein.

29 (c) (1) A peace officer of the Department of General Services  
30 of the City of Los Angeles designated by the general manager of  
31 the department, if the primary duty of the officer is the  
32 enforcement of the law in or about properties owned, operated, or  
33 administered by his or her employing agency or when performing  
34 necessary duties with respect to patrons, employees, and  
35 properties of his or her employing agency.

36 (2) A peace officer designated pursuant to this subdivision, and  
37 authorized to carry firearms by his or her employing agency, shall  
38 satisfactorily complete the introductory course of firearm training  
39 required by Section 832 and shall requalify in the use of firearms  
40 every six months.

(3) Notwithstanding any other provision of law, a peace officer designated pursuant to this subdivision who is authorized to carry a firearm by his or her employing agency while on duty shall not be authorized to carry a firearm when he or she is not on duty.

(d) A housing authority patrol officer employed by the housing authority of a city, district, county, or city and county or employed by the police department of a city and county, if the primary duty of the officer is the enforcement of the law in or about properties owned, operated, or administered by his or her employing agency or when performing necessary duties with respect to patrons, employees, and properties of his or her employing agency.

~~SEC. 6.~~

*SEC. 12. Section 836 of the Penal Code is amended to read:*

836. (a) A peace officer may arrest a person in obedience to a warrant, or, pursuant to the authority granted to him or her by Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, without a warrant, may arrest a person whenever any of the following circumstances occur:

(1) The officer has probable cause to believe that the person to be arrested has committed a public offense in the officer's presence.

(2) The person arrested has committed a felony, although not in the officer's presence.

(3) The officer has probable cause to believe that the person to be arrested has committed a felony, whether or not a felony, in fact, has been committed.

(b) Any time a peace officer is called out on a domestic violence call, it shall be mandatory that the officer make a good faith effort to inform the victim of his or her right to make a citizen's arrest. This information shall include advising the victim how to safely execute the arrest.

(c) (1) When a peace officer is responding to a call alleging a violation of a domestic violence protective or restraining order issued under the Family Code, Section 527.6 of the Code of Civil Procedure, Section 213.5 of the Welfare and Institutions Code, Section 136.2 of this code, or paragraph (2) of subdivision (a) of Section 1203.097 of this code, or of a domestic violence protective or restraining order issued by the court of another state, tribe, or territory and the peace officer has probable cause to believe that the person against whom the order is issued has notice of the order

1 and has committed an act in violation of the order, the officer shall,  
2 consistent with subdivision (b) of Section 13701, make a lawful  
3 arrest of the person without a warrant and take that person into  
4 custody whether or not the violation occurred in the presence of the  
5 arresting officer. The officer shall, as soon as possible after the  
6 arrest, confirm with the appropriate authorities or the Domestic  
7 Violence Protection Order Registry maintained pursuant to  
8 Section 6380 of the Family Code that a true copy of the protective  
9 order has been registered, unless the victim provides the officer  
10 with a copy of the protective order.

11 (2) The person against whom a protective order has been issued  
12 shall be deemed to have notice of the order if the victim presents  
13 to the officer proof of service of the order, the officer confirms with  
14 the appropriate authorities that a true copy of the proof of service  
15 is on file, or the person against whom the protective order was  
16 issued was present at the protective order hearing or was informed  
17 by a peace officer of the contents of the protective order.

18 (3) In situations where mutual protective orders have been  
19 issued under Division 10 (commencing with Section 6200) of the  
20 Family Code, liability for arrest under this subdivision applies  
21 only to those persons who are reasonably believed to have been the  
22 primary aggressor. In those situations, prior to making an arrest  
23 under this subdivision, the peace officer shall make reasonable  
24 efforts to identify, and may arrest, the primary aggressor involved  
25 in the incident. The primary aggressor is the person determined to  
26 be the most significant, rather than the first, aggressor. In  
27 identifying the primary aggressor, an officer shall consider (A) the  
28 intent of the law to protect victims of domestic violence from  
29 continuing abuse, (B) the threats creating fear of physical injury,  
30 (C) the history of domestic violence between the persons involved,  
31 and (D) whether either person involved acted in self-defense.

32 (d) Notwithstanding paragraph (1) of subdivision (a), if a  
33 suspect commits an assault or battery upon a current or former  
34 spouse, fiancé, fiancée, a current or former cohabitant as defined  
35 in Section 6209 of the Family Code, a person with whom the  
36 suspect currently is having or has previously had an engagement  
37 or dating relationship, as defined in paragraph (10) of subdivision  
38 (f) of Section 243, a person with whom the suspect has parented  
39 a child, or is presumed to have parented a child pursuant to the  
40 Uniform Parentage Act (Part 3 (commencing with Section 7600)





1 of Division 12 of the Family Code), a child of the suspect, a child  
2 whose parentage by the suspect is the subject of an action under the  
3 Uniform Parentage Act, a child of a person in one of the above  
4 categories, any other person related to the suspect by  
5 consanguinity or affinity within the second degree, or any person  
6 who is 65 years of age or older and who is related to the suspect  
7 by blood or legal guardianship, a peace officer may arrest the  
8 suspect without a warrant where both of the following  
9 circumstances apply:

10 (1) The peace officer has probable cause to believe that the  
11 person to be arrested has committed the assault or battery, whether  
12 or not it has in fact been committed.

13 (2) The peace officer makes the arrest as soon as probable cause  
14 arises to believe that the person to be arrested has committed the  
15 assault or battery, whether or not it has in fact been committed.

16 (e) In addition to the authority to make an arrest without a  
17 warrant pursuant to paragraphs (1) and (3) of subdivision (a), a  
18 peace officer may, without a warrant, arrest a person for a violation  
19 of Section 12025 when all of the following apply:

20 (1) The officer has reasonable cause to believe that the person  
21 to be arrested has committed the violation of Section 12025.

22 (2) The violation of Section 12025 occurred within an airport,  
23 as defined in Section 21013 of the Public Utilities Code, in an area  
24 to which access is controlled by the inspection of persons and  
25 property.

26 (3) The peace officer makes the arrest as soon as reasonable  
27 cause arises to believe that the person to be arrested has committed  
28 the violation of Section 12025.

29 *SEC. 13.* Section 847 of the Penal Code is amended to read:

30 847. (a) A private person who has arrested another for the  
31 commission of a public offense must, without unnecessary delay,  
32 take the person arrested before a magistrate, or deliver him or her  
33 to a peace officer.

34 (b) There shall be no civil liability on the part of, and no cause  
35 of action shall arise against, any peace officer or federal criminal  
36 investigator or law enforcement officer described in subdivision  
37 (a) or (d) of Section 830.8, acting within the scope of his or her  
38 authority, for false arrest or false imprisonment arising out of any  
39 arrest under any of the following circumstances:



(1) The arrest was lawful, or the peace officer, at the time of the arrest, had reasonable cause to believe the arrest was lawful.

(2) The arrest was made pursuant to a charge made, upon reasonable cause, of the commission of a felony by the person to be arrested.

(3) The arrest was made pursuant to the requirements of Section 142, 837, 838, or 839.

~~SEC. 6.5.~~

*SEC. 14.* Section 981 of the Penal Code is amended to read: 981. The bench warrant must be substantially in the following form:

County of \_\_\_\_\_. The People of the State of California to any Sheriff, Marshal, or Policeman in this State: An accusatory pleading having been filed on the \_\_\_\_ day of \_\_\_\_, A.D. \_\_\_\_, in the Superior Court of the County of \_\_\_\_, charging C. D. with the crime of \_\_\_\_ (designating it generally); you are, therefore, commanded forthwith to arrest the above named C. D., and bring him or her before that Court (or if the accusatory pleading has been sent to another Court, then before that Court, naming it), to answer said accusatory pleading, or if the Court is not in session, that you deliver him *or her* into the custody of the Sheriff of the County of \_\_\_\_.

Given under my hand, with the seal of said Court affixed, this \_\_\_\_ day of \_\_\_\_, A.D. \_\_\_\_.

By order of said Court.

[SEAL.]

E. F., Clerk.

~~SEC. 7.~~

*SEC. 15.* Section 1170.11 of the Penal Code is amended to read:

1170.11. As used in Section 1170.1, the term “specific enhancement” means enhancements that relate to the circumstances of the crime. It includes, but is not limited to, the enhancements provided in Sections 186.10, 186.11, 186.22, 186.26, 186.33, 273.4, 289.5, 290, 290.4, 347, and 368, subdivisions (a), (b), and (c) of Section 422.75, paragraphs (2), (3), (4), and (5) of subdivision (a) of Section 451.1, paragraphs (2), (3), and (4) of subdivision (a) of Section 452.1, subdivision (g) of Section 550, Sections 593a, 600, 667.8, 667.85, 667.9, 667.10, 667.15, 667.16, 667.17, 674, 12021.5, 12022, 12022.2, 12022.3,

1 12022.4, 12022.5, 12022.53, 12022.55, 12022.6, 12022.7,  
2 12022.75, 12022.8, 12022.85, 12022.9, 12022.95, 12072, and  
3 12280 of this code, and in Sections 1522.01 and 11353.1,  
4 subdivision (b) of Section 11353.4, Sections 11353.6, 11356.5,  
5 11370.4, 11379.7, 11379.8, 11379.9, 11380.1, 25189.5, and  
6 25189.7 of the Health and Safety Code, and in Sections 20001 and  
7 23558 of the Vehicle Code, and in Sections 10980 and 14107 of the  
8 Welfare and Institutions Code.

9 ~~SEC. 8.~~

10 *SEC. 16.* Section 1202.1 of the Penal Code is amended to  
11 read:

12 1202.1. (a) Notwithstanding Sections 120975 and 120990 of  
13 the Health and Safety Code, the court shall order every person who  
14 is convicted of, or adjudged by the court to be a person described  
15 by Section 601 or 602 of the Welfare and Institutions Code as  
16 provided in Section 725 of the Welfare and Institutions Code by  
17 reason of a violation of, a sexual offense listed in subdivision (e),  
18 whether or not a sentence or fine is imposed or probation is  
19 granted, to submit to a blood or oral mucosal transudate saliva test  
20 for evidence of antibodies to the probable causative agent of  
21 acquired immune deficiency syndrome (AIDS) within 180 days of  
22 the date of conviction. Each person tested under this section shall  
23 be informed of the results of the blood or oral mucosal transudate  
24 saliva test.

25 (b) Notwithstanding Section 120980 of the Health and Safety  
26 Code, the results of the blood or oral mucosal transudate saliva test  
27 to detect antibodies to the probable causative agent of AIDS shall  
28 be transmitted by the clerk of the court to the Department of Justice  
29 and the local health officer.

30 (c) Notwithstanding Section 120980 of the Health and Safety  
31 Code, the Department of Justice shall provide the results of a test  
32 or tests as to persons under investigation or being prosecuted under  
33 Section 647f or 12022.85, if the results are on file with the  
34 department, to the defense attorney upon request and the results  
35 also shall be available to the prosecuting attorney upon request for  
36 the purpose of either preparing counts for a subsequent offense  
37 under Section 647f or sentence enhancement under Section  
38 12022.85 or complying with subdivision (d).

39 (d) (1) In every case in which a person is convicted of a sexual  
40 offense listed in subdivision (e) or adjudged by the court to be a

person described by Section 601 or 602 of the Welfare and Institutions Code as provided in Section 725 of the Welfare and Institutions Code by reason of the commission of a sexual offense listed in subdivision (e), the prosecutor or the prosecutor's victim-witness assistance bureau shall advise the victim of his or her right to receive the results of the blood or oral mucosal transudate saliva test performed pursuant to subdivision (a). The prosecutor or the prosecutor's victim-witness assistance bureau shall refer the victim to the local health officer for counseling to assist him or her in understanding the extent to which the particular circumstances of the crime may or may not have placed the victim at risk of transmission of the human immunodeficiency virus (HIV) from the accused, to ensure that the victim understands the limitations and benefits of current tests for HIV, and to assist the victim in determining whether he or she should make the request.

(2) Notwithstanding any other law, upon the victim's request, the local health officer shall be responsible for disclosing test results to the victim who requested the test and the person who was tested. However, as specified in subdivision (g), positive test results shall not be disclosed to the victim or the person who was tested without offering or providing professional counseling appropriate to the circumstances as follows:

(A) To help the victim understand the extent to which the particular circumstances of the crime may or may not have put the victim at risk of transmission of HIV from the perpetrator.

(B) To ensure that the victim understands both the benefits and limitations of the current tests for HIV.

(C) To obtain referrals to appropriate health care and support services.

(e) For purposes of this section, "sexual offense" includes any of the following:

(1) Rape in violation of Section 261 or 264.1.

(2) Unlawful intercourse with a person under 18 years of age in violation of Section 261.5 or 266c.

(3) Rape of a spouse in violation of Section 262 or 264.1.

(4) Sodomy in violation of Section 266c or 286.

(5) Oral copulation in violation of Section 266c or 288a.

(6) (A) Any of the following offenses if the court finds that there is probable cause to believe that blood, semen, or any other

1 bodily fluid capable of transmitting HIV has been transferred from  
2 the defendant to the victim:

3 (i) Sexual penetration in violation of Section 264.1, 266c, or  
4 289.

5 (ii) Aggravated sexual assault of a child in violation of Section  
6 269.

7 (iii) Lewd or lascivious conduct with a child in violation of  
8 Section 288.

9 (iv) Continuous sexual abuse of a child in violation of Section  
10 288.5.

11 (v) The attempt to commit any offense described in clauses (i)  
12 to (iv), inclusive.

13 (B) For purposes of this paragraph, the court shall note its  
14 finding on the court docket and minute order if one is prepared.

15 (f) Any blood or oral mucosal transudate saliva tested pursuant  
16 to subdivision (a) shall be subjected to appropriate confirmatory  
17 tests to ensure accuracy of the first test results, and under no  
18 circumstances shall test results be transmitted to the victim or the  
19 person who is tested unless any initially reactive test result has  
20 been confirmed by appropriate confirmatory tests for positive  
21 reactors.

22 (g) The local health officer shall be responsible for disclosing  
23 test results to the victim who requested the test and the person who  
24 was tested. However, positive test results shall not be disclosed to  
25 the victim or the person who was tested without offering or  
26 providing professional counseling appropriate to the  
27 circumstances.

28 (h) The local health officer and the victim shall comply with all  
29 laws and policies relating to medical confidentiality, subject to the  
30 disclosure authorized by subdivisions (g) and (i).

31 (i) Any victim who receives information from the local health  
32 officer pursuant to subdivision (g) may disclose the information as  
33 he or she deems necessary to protect his or her health and safety  
34 or the health and safety of his or her family or sexual partner.

35 (j) Any person who transmits test results or discloses  
36 information pursuant to this section shall be immune from civil  
37 liability for any action taken in compliance with this section.

38 ~~SEC. 9.~~

39 *SEC. 17.* Section 1203.1abc of the Penal Code is amended to  
40 read:

1 1203.1abc. (a) In addition to any other terms of  
2 imprisonment, fine, and conditions of probation, the court may  
3 require any adult convicted of an offense which is not a violent  
4 felony, as defined in subdivision (c) of Section 667.5, or a serious  
5 felony, as defined in subdivision (c) of Section 1192.7, to  
6 participate in a program that is designed to assist the person in  
7 obtaining the equivalent of a 12th grade education. In the case of  
8 a probationer, the court may require participation in either a  
9 literacy program or a General Education Development (GED)  
10 program.

11 (b) A probation officer may utilize volunteers from the  
12 community to provide assistance to probationers under this  
13 section.

14 (c) This section shall be operable in Los Angeles County as a  
15 pilot project upon approval by a majority vote of the county's  
16 board of supervisors to be conducted in two courts within the  
17 County of Los Angeles. It shall be operable in other counties only  
18 upon approval by a majority vote of a county's board of  
19 supervisors.

20 (d) A county probation department may utilize the volunteer  
21 services of a local college or university in evaluating the  
22 effectiveness of this program. In the County of Los Angeles, the  
23 California State University at Los Angeles (CSULA) shall  
24 evaluate the program and submit a report to the Legislature  
25 regarding the success or failure of the program. CSULA shall bear  
26 the costs of the evaluation and report.

27 (e) This section shall not apply to any person who is mentally  
28 or developmentally incapable of attaining the equivalent of a 12th  
29 grade education.

30 (f) Failure to make progress in a program under subdivision (a)  
31 is not a basis for revocation of probation.

32 (g) This pilot program shall be deemed successful if at least 10  
33 percent of the persons participating in the pilot projects obtain the  
34 equivalent of a 12th grade education within three years.

35 (h) It is the intent of the Legislature that any increases in adult  
36 enrollment resulting from the implementation of subdivision (a)  
37 shall not be included in the apportionment of funds for adult  
38 education pursuant to Sections 52616.17 to 52616.20, inclusive,  
39 of the Education Code.

(i) This section is repealed effective January 1, 2008, unless it is extended or made permanent by subsequent legislation.

~~SEC. 10.~~

*SEC. 18.* Section 1203.3 of the Penal Code is amended to read:

1203.3. (a) The court shall have authority at any time during the term of probation to revoke, modify, or change its order of suspension of imposition or execution of sentence. The court may at any time when the ends of justice will be subserved thereby, and when the good conduct and reform of the person so held on probation shall warrant it, terminate the period of probation, and discharge the person so held.

(b) The exercise of the court's authority in subdivision (a) to revoke, modify, change, or terminate probation is subject to the following:

(1) Before any sentence or term or condition of probation is modified, a hearing shall be held in open court before the judge. The prosecuting attorney shall be given a two-day written notice and an opportunity to be heard on the matter, except that, as to modifying or terminating a protective order in a case involving domestic violence, as defined in Section 6211 of the Family Code, the prosecuting attorney shall be given a five-day written notice and an opportunity to be heard.

(A) If the sentence or term or condition of probation is modified pursuant to this section, the judge shall state the reasons for that modification on the record.

(B) As used in this section, modification of sentence shall include reducing a felony to a misdemeanor.

(2) No order shall be made without written notice first given by the court or the clerk thereof to the proper probation officer of the intention to revoke, modify, or change its order.

(3) In all cases, if the court has not seen fit to revoke the order of probation and impose sentence or pronounce judgment, the defendant shall at the end of the term of probation or any extension thereof, be by the court discharged subject to the provisions of these sections.

(4) The court may modify the time and manner of the term of probation for purposes of measuring the timely payment of restitution obligations or the good conduct and reform of the defendant while on probation. The court shall not modify the

1 dollar amount of the restitution obligations due to the good  
2 conduct and reform of the defendant, absent compelling and  
3 extraordinary reasons, nor shall the court limit the ability of payees  
4 to enforce the obligations in the manner of judgments in civil  
5 actions.

6 (5) Nothing in this section shall be construed to prohibit the  
7 court from modifying the dollar amount of a restitution order  
8 pursuant to subdivision (f) of Section 1202.4 at any time during the  
9 term of the probation.

10 (6) The court may limit or terminate a protective order that is  
11 a condition of probation in a case involving domestic violence, as  
12 defined in Section 6211 of the Family Code. In determining  
13 whether to limit or terminate the protective order, the court shall  
14 consider if there has been any material change in circumstances  
15 since the crime for which the order was issued, and any issue that  
16 relates to whether there exists good cause for the change,  
17 including, but not limited to, consideration of all of the following:

18 (A) Whether the probationer has accepted responsibility for the  
19 abusive behavior perpetrated against the victim.

20 (B) Whether the probationer is currently attending and actively  
21 participating in counseling sessions.

22 (C) Whether the probationer has completed parenting  
23 counseling, or attended alcoholics or narcotics counseling.

24 (D) Whether the probationer has moved from the state, or is  
25 incarcerated.

26 (E) Whether the probationer is still cohabiting, or intends to  
27 cohabit, with any subject of the order.

28 (F) Whether the defendant has performed well on probation,  
29 including consideration of any progress reports.

30 (G) Whether the victim desires the change, and if so, the  
31 victim's reasons, whether the victim has consulted a victim  
32 advocate, and whether the victim has prepared a safety plan and  
33 has access to local resources.

34 (H) Whether the change will impact any children involved,  
35 including consideration of any child protective services  
36 information.

37 (I) Whether the ends of justice would be served by limiting or  
38 terminating the order.



1 (c) If a probationer is ordered to serve time in jail, and the  
2 probationer escapes while serving that time, the probation is  
3 revoked as a matter of law on the day of the escape.

4 (d) If probation is revoked pursuant to subdivision (c), upon  
5 taking the probationer into custody, the probationer shall be  
6 accorded a hearing or hearings consistent with the holding in the  
7 case of *People v. Vickers* (1972) 8 Cal.3d 451. The purpose of that  
8 hearing or hearings is not to revoke probation, as the revocation  
9 has occurred as a matter of law in accordance with subdivision (c),  
10 but rather to afford the defendant an opportunity to require the  
11 prosecution to establish that the alleged violation did in fact occur  
12 and to justify the revocation.

13 (e) This section does not apply to cases covered by Section  
14 1203.2.

15 ~~SEC. 11.~~

16 *SEC. 19. Section 3520 of the Penal Code is amended to read:*

17 3520. The department shall make a ~~biannual~~ report *due on or*  
18 *before January 1 of each odd-numbered year* containing a review  
19 of each research program which has been approved and conducted.  
20 The report shall be transmitted to the Legislature and shall be made  
21 available to the public.

22 *SEC. 20. Section 11171 of the Penal Code is amended to read:*

23 11171. (a) (1) The Legislature hereby finds and declares that  
24 adequate protection of victims of child physical abuse or neglect  
25 has been hampered by the lack of consistent and comprehensive  
26 medical examinations.

27 (2) Enhancing examination procedures, documentation, and  
28 evidence collection relating to child abuse or neglect will improve  
29 the investigation and prosecution of child abuse or neglect as well  
30 as other child protection efforts.

31 (b) On or before January 1, 2004, the Office of Criminal Justice  
32 Planning shall, in cooperation with the State Department of Social  
33 Services, the Department of Justice, the California Association of  
34 Crime Lab Directors, the California District Attorneys  
35 Association, the California State Sheriffs' Association, the  
36 California Peace Officers' Association, the California Medical  
37 Association, the California Police Chiefs' Association, child  
38 advocates, the California Medical Training Center, child  
39 protective services, and other appropriate experts, establish  
40 medical forensic forms, instructions, and examination protocols

1 for victims of child physical abuse or neglect using as a model the  
2 form and guidelines developed pursuant to Section 13823.5.

3 (c) The form shall include, but not be limited to, a place for  
4 notation concerning each of the following:

5 (1) Any notification of injuries or any report of suspected child  
6 physical abuse or neglect to law enforcement authorities or  
7 children's protective services, in accordance with existing  
8 reporting procedures.

9 (2) Addressing relevant consent issues, if indicated.

10 (3) The taking of a patient history of child physical abuse or  
11 neglect that includes other relevant medical history.

12 (4) The performance of a physical examination for evidence of  
13 child physical abuse or neglect.

14 (5) The collection or documentation of any physical evidence  
15 of child physical abuse or neglect, including any recommended  
16 photographic procedures.

17 (6) The collection of other medical or forensic specimens,  
18 including drug ingestion or toxication, as indicated.

19 (7) Procedures for the preservation and disposition of  
20 evidence.

21 (8) Complete documentation of medical forensic exam  
22 findings with recommendations for diagnostic studies, including  
23 blood tests and X-rays.

24 (9) An assessment as to whether there are findings that indicate  
25 physical abuse or neglect.

26 (d) The forms shall become part of the patient's medical record  
27 pursuant to guidelines established by the advisory committee of  
28 the Office of Criminal Justice Planning and subject to the  
29 confidentiality laws pertaining to the release of medical forensic  
30 examination records.

31 (e) The forms shall be made accessible for use on the Internet.

32 ~~SEC. 12.~~

33 *SEC. 21.* Section 12022.5 of the Penal Code is amended to  
34 read:

35 12022.5. (a) Except as provided in subdivision (b), any  
36 person who personally uses a firearm in the commission of a  
37 felony or attempted felony shall be punished by an additional and  
38 consecutive term of imprisonment in the state prison for 3, 4, or  
39 10 years, unless use of a firearm is an element of that offense.

(b) Notwithstanding subdivision (a), any person who personally uses an assault weapon, as specified in Section 12276 or Section 12276.1, or a machinegun, as defined in Section 12200, in the commission of a felony or attempted felony, shall be punished by an additional and consecutive term of imprisonment in the state prison for 5, 6, or 10 years.

(c) Notwithstanding Section 1385 or any other provision of law, the court shall not strike an allegation under this section or a finding bringing a person within the provisions of this section.

(d) Notwithstanding the limitation in subdivision (a) relating to being an element of the offense, the additional term provided by this section shall be imposed for any violation of Section 245 if a firearm is used, or for murder if the killing is perpetrated by means of shooting a firearm from a motor vehicle intentionally at another person outside of the vehicle with the intent to inflict great bodily injury or death.

(e) When a person is found to have personally used a firearm, an assault weapon, or a machinegun in the commission of a felony or attempted felony as provided in this section and the firearm, assault weapon, or machinegun is owned by that person, the court shall order that the firearm be deemed a nuisance and disposed of in the manner provided in Section 12028.

(f) For purposes of imposing an enhancement under Section 1170.1, the enhancements under this section shall count as one, single enhancement.

~~SEC. 13.~~

*SEC. 22. Section 12022.53 of the Penal Code is amended to read:*

12022.53. (a) This section applies to the following felonies:

(1) Section 187 (murder).

(2) Section 203 or 205 (mayhem).

(3) Section 207, 209, or 209.5 (kidnapping).

(4) Section 211 (robbery).

(5) Section 215 (carjacking).

(6) Section 220 (assault with intent to commit a specified felony).

(7) Subdivision (d) of Section 245 (assault with a firearm on a peace officer or firefighter).

(8) Section 261 or 262 (rape).

(9) Section 264.1 (rape or sexual penetration in concert).

1 (10) Section 286 (sodomy).

2 (11) Section 288 or 288.5 (lewd act on a child).

3 (12) Section 288a (oral copulation).

4 (13) Section 289 (sexual penetration).

5 (14) Section 4500 (assault by a life prisoner).

6 (15) Section 4501 (assault by a prisoner).

7 (16) Section 4503 (holding a hostage by a prisoner).

8 (17) Any felony punishable by death or imprisonment in the  
9 state prison for life.

10 (18) Any attempt to commit a crime listed in this subdivision  
11 other than an assault.

12 (b) Notwithstanding any other provision of law, any person  
13 who ~~is convicted, in the commission~~ of a felony specified in  
14 subdivision (a), ~~and who in the commission of that felony~~  
15 personally uses a firearm, shall be punished by an additional and  
16 consecutive term of imprisonment in the state prison for 10 years.  
17 The firearm need not be operable or loaded for this enhancement  
18 to apply.

19 (c) Notwithstanding any other provision of law, any person  
20 who ~~is convicted, in the commission~~ of a felony specified in  
21 subdivision (a), ~~and who in the commission of that felony~~  
22 personally and intentionally and personally discharges a firearm,  
23 shall be punished by an additional and consecutive term of  
24 imprisonment in the state prison for 20 years.

25 (d) Notwithstanding any other provision of law, any person  
26 who ~~is convicted, in the commission~~ of a felony specified in  
27 subdivision (a), Section 246, or subdivision (c) or (d) of Section  
28 12034, ~~and who in the commission of that felony personally and~~  
29 intentionally and personally discharges a firearm and proximately  
30 causes great bodily injury, as defined in Section 12022.7, or death,  
31 to any person other than an accomplice, shall be punished by an  
32 additional and consecutive term of imprisonment in the state  
33 prison for 25 years to life.

34 (e) (1) The enhancements provided in this section shall apply  
35 to any person who is a principal in the commission of an offense  
36 if both of the following are pled and proved:

37 (A) The person violated subdivision (b) of Section 186.22.

38 (B) Any principal in the offense committed any act specified in  
39 subdivision (b), (c), or (d).

(2) An enhancement for participation in a criminal street gang pursuant to Chapter 11 (commencing with Section 186.20) of Title 7 of Part 1 shall not be imposed on a person in addition to an enhancement imposed pursuant to this subdivision, unless the person personally used or personally discharged a firearm in the commission of the offense.

(f) Only one additional term of imprisonment under this section shall be imposed per person for each crime. If more than one enhancement per person is found true under this section, the court shall impose upon that person the enhancement that provides the longest term of imprisonment. An enhancement involving a firearm specified in Section 12021.5, 12022, 12022.3, 12022.4, 12022.5, or 12022.55 shall not be imposed on a person in addition to an enhancement imposed pursuant to this section. An enhancement for great bodily injury as defined in Section 12022.7, 12022.8, or 12022.9 shall not be imposed on a person in addition to an enhancement imposed pursuant to subdivision (d).

(g) Notwithstanding any other provision of law, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, any person found to come within the provisions of this section.

(h) Notwithstanding Section 1385 or any other provision of law, the court shall not strike an allegation under this section or a finding bringing a person within the provisions of this section.

(i) The total amount of credits awarded pursuant to Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3 or pursuant to Section 4019 or any other provision of law shall not exceed 15 percent of the total term of imprisonment imposed on a defendant upon whom a sentence is imposed pursuant to this section.

(j) For the penalties in this section to apply, the existence of any fact required under subdivision (b), (c), or (d) shall be alleged in the information or indictment and either admitted by the defendant in open court or found to be true by the trier of fact. When an enhancement specified in this section has been admitted or found to be true, the court shall impose punishment pursuant to this section rather than imposing punishment authorized under any other provision of law, unless another provision of law provides for a greater penalty or a longer term of imprisonment.

(k) When a person is found to have used or discharged a firearm in the commission of an offense that includes an allegation pursuant to this section and the firearm is owned by that person, a coparticipant, or a coconspirator, the court shall order that the firearm be deemed a nuisance and disposed of in the manner provided in Section 12028.

(l) The enhancements specified in this section shall not apply to the lawful use or discharge of a firearm by a public officer, as provided in Section 196, or by any person in lawful self-defense, lawful defense of another, or lawful defense of property, as provided in Sections 197, 198, and 198.5.

*SEC. 23. Section 13864 of the Penal Code, as amended by Chapter 711 of the Statutes of 1992, is amended to read:*

13864. There is hereby created, in the Office of Criminal Justice Planning, the Comprehensive Alcohol and Drug Prevention Education component of the Suppression of Drug Abuse in Schools Program in public elementary schools in grades 4 to 6, inclusive. Notwithstanding Section 13861 or any other provision in this code, all Comprehensive Alcohol and Drug Prevention Education component funds made available to the Office of Criminal Justice Planning in accordance with the Classroom Instructional Improvement and Accountability Act shall be administered by and disbursed to county superintendents of schools in this state by the Executive Director of the Office of Criminal Justice Planning. All applications for that funding shall be reviewed and evaluated by the Office of Criminal Justice Planning, in consultation with the State Department of Alcohol and Drug Programs and the State Department of Education.

(a) The executive director is authorized to allocate and award funds to county department superintendents of schools for allocation to individual school districts or to a consortium of two or more school districts. Applications funded under this section shall comply with the criteria, policies, and procedures established under subdivision (b) of this section.

(b) As a condition of eligibility for the funding described in this section, the school district or consortium of school districts shall have entered into an agreement with a local law enforcement agency to jointly implement a comprehensive alcohol and drug abuse prevention, intervention, and suppression program developed by the Office of Criminal Justice Planning, in

1 consultation with the State Department of Alcohol and Drug  
2 Programs and the State Department of Education, containing all  
3 of the following components:

4 (1) A standardized age-appropriate curriculum designed for  
5 pupils in grades 4 to 6, inclusive, specifically tailored and sensitive  
6 to the socioeconomic and ethnic characteristics of the target pupil  
7 population. Although new curricula shall not be required to be  
8 developed, existing curricula may be modified and adapted to  
9 meet local needs. The elements of the standardized comprehensive  
10 alcohol and drug prevention education program curriculum shall  
11 be defined and approved by the Governor's Policy Council on  
12 Drug and Alcohol Abuse, as established by Executive Order #  
13 ~~D-70-80~~ #D-70-80.

14 (2) A planning process that shall include both assessment of the  
15 school district's characteristics, resources and the extent of  
16 problems related to juvenile drug abuse, and input from local law  
17 enforcement agencies.

18 (3) A school district governing board policy that provides for  
19 a coordinated intervention system that, at a minimum, includes  
20 procedures for identification, intervention, and referral of at-risk  
21 alcohol-and drug-involved youth, and identifies the roles and  
22 responsibilities of law enforcement, school personnel, parents,  
23 and pupils.

24 (4) Early intervention activities that include, but are not limited  
25 to, the identification of pupils who are high risk or have chronic  
26 drug abuse problems, assessment, and referral for appropriate  
27 services, including ongoing support services.

28 (5) Parent education programs to initiate and maintain parental  
29 involvement, with an emphasis for parents of at-risk pupils.

30 (6) Staff and in-service training programs, including both  
31 indepth training for the core team involved in providing program  
32 services and general awareness training for all school faculty and  
33 administrative, credentialed, and noncredentialed school  
34 personnel.

35 (7) In-service training programs for local law enforcement  
36 officers.

37 (8) School, law enforcement, and community involvement to  
38 ensure coordination of program services. Pursuant to that  
39 coordination, the school district or districts and other local  
40 agencies are encouraged to use a single community advisory



1 committee or task force for drug, alcohol, and tobacco abuse  
2 prevention programs, as an alternative to the creation of a separate  
3 group for that purpose under each state or federally funded  
4 program.

5 (c) The application of the county superintendent of schools  
6 shall be submitted to the Office of Criminal Justice Planning.  
7 Funds made available to the Office of Criminal Justice Planning  
8 for allocation under this section are intended to enhance, but shall  
9 not supplant, local funds that would, in the absence of the  
10 Comprehensive Alcohol and Drug Prevention Education  
11 component, be made available to prevent, intervene in, or suppress  
12 drug abuse among schoolage children. For districts that are already  
13 implementing a comprehensive drug abuse prevention program  
14 for pupils in grades 4 to 6, inclusive, the county superintendent  
15 shall propose the use of the funds for drug prevention activities in  
16 school grades other than 4 to 6, inclusive, compatible with the  
17 program components of this section. The expenditure of funds for  
18 that alternative purpose shall be approved by the executive  
19 director.

20 (1) Unless otherwise authorized by the Office of Criminal  
21 Justice Planning, each county superintendent of schools shall be  
22 the fiscal agent for any Comprehensive Alcohol and Drug  
23 Prevention Education component award, and shall be responsible  
24 for ensuring that each school district within that county receives  
25 the allocation prescribed by the Office of Criminal Justice  
26 Planning. Each county superintendent shall develop a countywide  
27 plan that complies with program guidelines and procedures  
28 established by the Office of Criminal Justice Planning pursuant to  
29 subdivision (d). A maximum of 5 percent of the county's  
30 allocation may be used for administrative costs associated with the  
31 project.

32 (2) Each county superintendent of schools shall establish and  
33 chair a local coordinating committee to assist the superintendent  
34 in developing and implementing a countywide implementation  
35 plan. This committee shall include the county drug administrator,  
36 law enforcement executives, school district governing board  
37 members and administrators, school faculty, parents, and drug  
38 prevention and intervention program executives selected by the  
39 superintendent and approved by the county board of supervisors.



(d) The Executive Director of the Office of Criminal Justice Planning, in consultation with the State Department of Alcohol and Drug Programs and the State Department of Education, shall prepare and issue guidelines and procedures for the Comprehensive Alcohol and Drug Prevention Education component consistent with this section.

(e) The Comprehensive Alcohol and Drug Prevention Education component guidelines shall set forth the terms and conditions upon which the Office of Criminal Justice Planning is prepared to award grants of funds pursuant to this section. The guidelines shall not constitute rules, regulations, orders, or standards of general application.

(f) Funds awarded under the Comprehensive Alcohol and Drug Prevention Education Program shall not be subject to Section 10318 of the Public Contracts Code.

(g) Funds available pursuant to Item 8100-111-001 and Provision 1 of Item 8100-001-001 of the Budget Act of 1989, or the successor provision of the appropriate Budget Act, shall be allocated to implement this section.

(h) The Executive Director of the Office of Criminal Justice Planning shall collaborate, to the extent possible, with other state agencies that administer drug, alcohol, and tobacco abuse prevention education programs to streamline and simplify the process whereby local educational agencies apply for drug, alcohol, and tobacco education funding under this section and under other state and federal programs. The Office of Criminal Justice Planning, the State Department of Alcohol and Drug Programs, the State Department of Education, and other state agencies, to the extent possible, shall develop joint policies and collaborate planning in the administration of drug, alcohol, and tobacco abuse prevention education programs.

*SEC. 24. Section 13864 of the Penal Code, as added by Chapter 82 of the Statutes of 1989 is repealed.*

~~13864. There is hereby created in the Office of Criminal justice Planning the Comprehensive Alcohol and Drug Prevention Education Program, to supplement the Suppression of Drug Abuse in Schools Program in public elementary schools in grades 4 to 6, inclusive. Notwithstanding Section 13861 or any other provision in this code, all Comprehensive Alcohol and Drug Prevention Education Program funds made available to the Office of Criminal~~

1 justice Planning in accordance with the Classroom Instructional  
2 Improvement and Accountability Act shall be administered and  
3 disbursed to county superintendents of schools in this' state by the  
4 Executive Director of the Office of Criminal Justice Planning. All  
5 applications for that funding shall be viewed an evaluated by the  
6 Office of Criminal justice Planning, in consultation with the  
7 Department of Alcohol and Drug Programs and the State  
8 Department of Education.

9 (a) The executive director is authorized to allocate and award  
10 funds to county department superintendents of schools for  
11 allocation to individual school districts or to a consortium of two  
12 or more school districts. Applications funded under this section  
13 shall comply with the criteria, policies, and procedures established  
14 under subdivision (b) of this section.

15 (b) As a condition of eligibility for the funding described in this  
16 section, the school district or consortium of school districts shall  
17 have entered into an agreement with a local law enforcement  
18 agency to jointly implement a comprehensive alcohol and drug  
19 abuse prevention, intervention, and suppression program  
20 developed by the Office of Criminal justice Planning, in  
21 consultation with the Department of Alcohol and Drug Programs  
22 and the State Department of Education, containing all of the  
23 following components:

24 (1) A standardized age-appropriate curriculum designed for  
25 pupils in grades 4 to 6, inclusive, specifically tailored and sensitive  
26 to the socioeconomic and ethnic characteristics of the target pupil  
27 population. Although new curricula shall not be required to be  
28 developed, existing curricula may be modified and adapted to  
29 meet local needs. The elements of the standardized comprehensive  
30 alcohol and drug prevention education program curriculum shall  
31 be defined and approved by the Governor's Policy Council on  
32 Drug and Alcohol Abuse, as established by Executive Order #  
33 D-70-80.

34 (2) A planning process that shall include both assessment of the  
35 school district's characteristics, resources and the extent of  
36 problems related to juvenile drug abuse, and input from local law  
37 enforcement agencies.

38 (3) A school district governing board policy that provides for  
39 a coordinated intervention system that, at a minimum, includes  
40 procedures for identification, intervention, and referral of at-risk

1 ~~alcohol and drug-involved youth, and identifies the roles and~~  
2 ~~responsibilities of law enforcement, school personnel, parents,~~  
3 ~~and pupils.~~

4 ~~(4) Early intervention activities that include, but are not limited~~  
5 ~~to, the identification of pupils who are high risk or have chronic~~  
6 ~~drug abuse problems, assessment, and referral for appropriate~~  
7 ~~services, including ongoing support services.~~

8 ~~(5) Parent education programs to initiate and maintain parental~~  
9 ~~involvement, with an emphasis for parents of at-risk pupils.~~

10 ~~(6) Staff and in-service training programs, including both~~  
11 ~~indepth training for the core team involved in providing program~~  
12 ~~services and general awareness training for all school faculty and~~  
13 ~~administrative, credentialed, and noncredentialed school~~  
14 ~~personnel.~~

15 ~~(7) In-service training programs for local law enforcement~~  
16 ~~officers.~~

17 ~~(8) School, law enforcement, and community involvement to~~  
18 ~~ensure coordination of program services.~~

19 ~~(c) The application of the county superintendent of schools~~  
20 ~~shall be submitted to the Office of Criminal Justice Planning.~~  
21 ~~Funds made available to the Office of Criminal justice Planning~~  
22 ~~for allocation under this section are intended to enhance, but shall~~  
23 ~~not supplant, local funds that would, in the absence of the~~  
24 ~~Comprehensive Alcohol and Drug Prevention Education~~  
25 ~~Program, be made available to prevent, intervene in, or suppress~~  
26 ~~drug abuse among school age children. For districts that are~~  
27 ~~already implementing a comprehensive drug abuse prevention~~  
28 ~~program for pupils in grades 4 to 6, inclusive, the county~~  
29 ~~superintendent shall propose the use of the funds for drug~~  
30 ~~prevention activities in school grades other than 4 to 6, inclusive,~~  
31 ~~compatible with the program components of this section. The~~  
32 ~~expenditure of funds for that an alternative purpose shall be~~  
33 ~~approved by the executive director.~~

34 ~~(1) Unless otherwise authorized by the Office of Criminal~~  
35 ~~justice Planning, each county superintendent of schools shall be~~  
36 ~~the fiscal agent for any Comprehensive Alcohol and Drug~~  
37 ~~Prevention Education program award, and shall be responsible for~~  
38 ~~ensuring that each school district within that county receives the~~  
39 ~~allocation prescribed by the Office of Criminal justice Planning.~~  
40 ~~Each county superintendent shall develop a countywide plan that~~

1 complies with program guidelines and procedures established by  
2 the Office of Criminal Justice Planning pursuant to subdivision (d).  
3 A maximum of 5 percent of the county's allocation may be used  
4 for administrative costs associated with the project.

5 (2) Each county superintendent of schools shall establish and  
6 chair a local coordinating committee to assist the superintendent  
7 in developing and implementing a countywide implementation  
8 plan. This committee shall include the county drug administrator,  
9 law enforcement executives, school district governing board  
10 members and administrators, school faculty, parents, and drug  
11 prevention and intervention program executives selected by the  
12 superintendent and approved by the county board of supervisors.

13 (d) The Executive Director of the Office of Criminal Justice  
14 Planning, in consultation with the Department of Alcohol Drug  
15 Programs and the State Department of Education, shall prepare  
16 and issue guidelines and procedures for the Comprehensive  
17 Alcohol and Drug Prevention Education Program consistent with  
18 this section.

19 (e) The Comprehensive Alcohol and Drug Prevention  
20 Education Program guidelines shall set forth the terms and  
21 conditions upon which the Office of Criminal Justice Planning is  
22 prepared to award grants of funds pursuant to this section. The  
23 guidelines shall not constitute rules, regulations, orders, or  
24 standards of general application.

25 (f) Funds awarded under the Comprehensive Alcohol and Drug  
26 Prevention Education Program shall not be subject to Section  
27 10318 of the Public Contracts Code.

28 (g) Commencing January 1, 1991, or six months after a full  
29 year of program operation, whichever occurs later, the executive  
30 director shall prepare and submit an annual report to the  
31 Legislature describing the operation of the program and the results  
32 obtained from the Comprehensive Alcohol and Drug Prevention  
33 Education Program receiving funds under this section.

34 (h) Funds available pursuant to Item 8100-001-001 of the  
35 Budget Act of 1989, or the successor provision of the appropriate  
36 Budget Act, shall be allocated to implement this section.

37 SEC. 25. Section 14309 of the Penal Code is amended to read:

38 14309. (a) The Environmental Circuit Prosecutor Project, a  
39 cooperative project of the California Environmental Protection

1 Agency and the California District Attorneys Association, is  
2 hereby established.

3 (b) The Environmental Circuit Prosecutor Project shall have  
4 the following purposes:

5 (1) Discourage the commission of violations of environmental  
6 laws by demonstrating the effective response of the criminal  
7 justice system to these violations, including, but not limited to,  
8 assisting district attorneys, particularly in rural counties, in the  
9 prosecution of criminal violations of environmental laws and  
10 regulations, where a district attorney has requested assistance.

11 (2) Establish model environmental crime prevention,  
12 enforcement, and prosecution techniques with statewide  
13 application for fair, uniform, and effective application.

14 (3) Increase the awareness and effectiveness of efforts to  
15 enforce environmental laws and to better integrate environmental  
16 prosecution into California's established criminal justice system  
17 by providing on the job education and training to local peace  
18 officers and prosecutors and to local and state environmental  
19 regulators.

20 (4) Promote, through uniform and effective prosecution and  
21 local assistance, the effective enforcement of environmental laws  
22 and regulations.

23 (c) (1) The secretary shall award project grants and administer  
24 funding from the account to the California District Attorneys  
25 Association for the purpose of providing for the day-to-day  
26 operations of the project.

27 (2) The award may only be used to fund the costs of  
28 prosecutors, investigators, and research attorney staff, including  
29 salary, benefits, and expenses.

30 (3) Circuit prosecutor project employees may be either  
31 employees of the California District Attorneys Association or  
32 employees on loan from local, state, or federal governmental  
33 agencies.

34 (d) (1) A district attorney may request the assistance of a  
35 circuit prosecutor from the Environmental Circuit Prosecutor  
36 Project for any of the following purposes:

37 (A) Assistance with the investigation and development of  
38 environmental cases.

39 (B) Consultation concerning whether an environmental case  
40 merits filing.



(C) Litigation support, including, but not limited to, the actual prosecution of the case. A district attorney shall, as appropriate, deputize a circuit prosecutor to prosecute cases within his or her jurisdiction.

(2) The authority of a deputized circuit prosecutor shall be consistent with and shall not exceed the authority of the elected district attorney or his or her deputies.

(3) Violations of city or county ordinances may be prosecuted by circuit prosecutors when there is an environmental nexus between the ordinance and a violation of state law, federal law, or both state and federal law.

(4) Participating district attorney offices shall provide matching funds or in-kind contributions equivalent to, but not less than, 20 percent of the expense of the deputized environmental circuit prosecutor.

~~SEC. 14.~~

*SEC. 26.* Section 14601 of the Vehicle Code is amended to read:

14601. (a) No person shall drive a motor vehicle at any time when that person's driving privilege is suspended or revoked for reckless driving in violation of Section 23103 or 23104, any reason listed in subdivision (a) or (c) of Section 12806 authorizing the department to refuse to issue a license, negligent or incompetent operation of a motor vehicle as prescribed in subdivision (e) of Section 12809, or negligent operation as prescribed in Section 12810.5, if the person so driving has knowledge of the suspension or revocation. Knowledge shall be conclusively presumed if mailed notice has been given by the department to the person pursuant to Section 13106. The presumption established by this subdivision is a presumption affecting the burden of proof.

(b) Any person convicted under this section shall be punished as follows:

(1) Upon a first conviction, by imprisonment in a county jail for not less than five days or more than six months and by a fine of not less than three hundred dollars (\$300) or more than one thousand dollars (\$1,000).

(2) If the offense occurred within five years of a prior offense which resulted in a conviction of a violation of this section or Section 14601.1, 14601.2, or 14601.5, by imprisonment in a county jail for not less than 10 days or more than one year and by



1 a fine of not less than five hundred dollars (\$500) or more than two  
2 thousand dollars (\$2,000).

3 (c) If the offense occurred within five years of a prior offense  
4 which resulted in a conviction of a violation of this section or  
5 Section 14601.1, 14601.2, or 14601.5, and is granted probation,  
6 the court shall impose as a condition of probation that the person  
7 be confined in a county jail for at least 10 days.

8 (d) Nothing in this section prohibits a person from driving a  
9 motor vehicle, which is owned or utilized by the person's  
10 employer, during the course of employment on private property  
11 which is owned or utilized by the employer, except an offstreet  
12 parking facility as defined in subdivision (d) of Section 12500.

13 (e) When the prosecution agrees to a plea of guilty or nolo  
14 contendere to a charge of a violation of this section in satisfaction  
15 of, or as a substitute for, an original charge of a violation of Section  
16 14601.2, and the court accepts that plea, except, in the interest of  
17 justice, when the court finds it would be inappropriate, the court  
18 shall, pursuant to Section 23575, require the person convicted, in  
19 addition to any other requirements, to install a certified ignition  
20 interlock device on any vehicle that the person owns or operates  
21 for a period not to exceed three years.

22 ~~SEC. 15.~~

23 *SEC. 27. Section 23109.2 of the Vehicle Code, as amended by*  
24 *Section 2 of Chapter 411 of the Statutes of 2002, is amended to*  
25 *read:*

26 23109.2. (a) (1) Whenever a peace officer determines that a  
27 person was engaged in any of the activities set forth in paragraph  
28 (2), the peace officer may immediately arrest and take into custody  
29 that person and may cause the removal and seizure of the motor  
30 vehicle used in that ~~contest~~ offense in accordance with Chapter 10  
31 (commencing with Section 22650). A motor vehicle so seized may  
32 be impounded for not more than 30 days.

33 (2) (A) A motor vehicle speed contest, as described in  
34 subdivision (a) of Section 23109.

35 (B) Reckless driving on a highway, as described in subdivision  
36 (a) of Section 23103.

37 (C) Reckless driving in any offstreet parking facility, as  
38 described in subdivision (b) of Section 23103.

39 (D) Exhibition of speed on a highway, as described in  
40 subdivision (c) of Section 23109.

1 (b) The registered and legal owner of a vehicle that is removed  
2 and seized under subdivision (a) or their agents shall be provided  
3 the opportunity for a storage hearing to determine the validity of  
4 the storage in accordance with Section 22852.

5 (c) (1) Notwithstanding Chapter 10 (commencing with  
6 Section 22650) or any other provision of law, an impounding  
7 agency shall release a motor vehicle to the registered owner or his  
8 or her agent prior to the conclusion of the impoundment period  
9 described in subdivision (a) under any of the following  
10 circumstances:

11 (A) If the vehicle is a stolen vehicle.

12 (B) If the person alleged to have been engaged in the motor  
13 vehicle speed contest, as described in subdivision (a), was not  
14 authorized by the registered owner of the motor vehicle to operate  
15 the motor vehicle at the time of the commission of the offense.

16 (C) If the registered owner of the vehicle was neither the driver  
17 nor a passenger of the vehicle at the time of the alleged violation  
18 pursuant to subdivision (a), or was unaware that the driver was  
19 using the vehicle to engage in any of the activities described in  
20 subdivision (a).

21 (D) If the legal owner or registered owner of the vehicle is a  
22 rental car agency.

23 (E) If, prior to the conclusion of the impoundment period, a  
24 citation or notice is dismissed under Section 40500, criminal  
25 charges are not filed by the district attorney because of a lack of  
26 evidence, or the charges are otherwise dismissed by the court.

27 (2) A vehicle shall be released pursuant to this subdivision only  
28 if the registered owner or his or her agent presents a currently valid  
29 driver's license to operate the vehicle and proof of current vehicle  
30 registration, or if ordered by a court.

31 (3) If, pursuant to subparagraph ~~(D)~~ (E) of paragraph (1) a  
32 motor vehicle is released prior to the conclusion of the  
33 impoundment period, neither the person charged with a violation  
34 of subdivision (a) of Section 23109 nor the registered owner of the  
35 motor vehicle is responsible for towing and storage charges nor  
36 shall the motor vehicle be sold to satisfy those charges.

37 (d) A vehicle seized and removed under subdivision (a) shall  
38 be released to the legal owner of the vehicle, or the legal owner's  
39 agent, on or before the 30th day of impoundment if all of the  
40 following conditions are met:

(1) The legal owner is a motor vehicle dealer, bank, credit union, acceptance corporation, or other licensed financial institution legally operating in this state, or is another person, not the registered owner, holding a security interest in the vehicle.

(2) The legal owner or the legal owner's agent pays all towing and storage fees related to the impoundment of the vehicle. No lien sale processing fees shall be charged to a legal owner who redeems the vehicle on or before the 15th day of impoundment.

(3) The legal owner or the legal owner's agent presents foreclosure documents or an affidavit of repossession for the vehicle.

(e) (1) The registered owner or his or her agent is responsible for all towing and storage charges related to the impoundment, and any administrative charges authorized under Section 22850.5.

(2) Notwithstanding paragraph (1), if the person convicted of engaging in the activities set forth in paragraph (2) of subdivision (a) was not authorized by the registered owner of the motor vehicle to operate the motor vehicle at the time of the commission of the offense, the court shall order the convicted person to reimburse the registered owner for any towing and storage charges related to the impoundment, and any administrative charges authorized under Section 22850.5 incurred by the registered owner to obtain possession of the vehicle, unless the court finds that the person convicted does not have the ability to pay all or part of those charges.

(3) If the vehicle is a rental vehicle, the rental car agency may require the person to whom the vehicle was rented to pay all towing and storage charges related to the impoundment and any administrative charges authorized under Section 22850.5 that were incurred by the rental car agency in connection with obtaining possession of the vehicle.

(4) The owner ~~shall not be~~ *is not* liable for any towing and storage charges related to the impoundment if acquittal or dismissal occurs.

(5) The vehicle ~~shall~~ *may* not be sold prior to the defendant's conviction.

(6) The impounding agency is responsible for the actual costs incurred by the towing agency as a result of the impoundment should the registered owner be absolved of liability for those charges pursuant to paragraph (3) of subdivision (c) of Section

23109.2. Notwithstanding this provision, nothing shall prohibit impounding agencies from making prior payment arrangements to satisfy this requirement.

(f) Any period in which a vehicle is subjected to storage under this section shall be included as part of the period of impoundment ordered by the court under subdivision (h) of Section 23109.

(g) This section shall remain in effect only until January 1, 2007, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2007, deletes or extends that date.

*SEC. 28. Section 23249 of the Vehicle Code is amended to read:*

23249. The Department of Motor Vehicles shall conduct two studies to evaluate the effectiveness of ignition interlock in California and shall report the findings to the Legislature, as specified in subdivisions (a) and (b).

(a) The department shall conduct a process study of ignition interlock in California and report the findings to the Legislature on or before July 1, 2002. This study shall examine the implementation of ignition interlock by the courts, the department and ignition interlock installers, and report the rate at which courts assign interlock to persons convicted of a violation of Section 14601.2 and the rate at which these persons install these devices.

(b) The department shall conduct an outcome study of ignition interlock in California and report the findings to the Legislature on or before July 1, 2004. This study shall examine the effectiveness of California's ignition interlock laws in reducing recidivism, moving violation convictions and crashes among drivers ordered by the court to install interlock devices, and among drivers applying to the department, and receiving from it, an ignition interlock restricted license.

(c) *This section shall remain in effect only until January 1, 2005, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2005, deletes or extends that date.*

*SEC. 29. Section 23249.1 of the Vehicle Code is repealed.*

~~23249.1. This article shall remain in effect only until January 1, 2005, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2005, deletes or extends that date.~~

1     *SEC. 30. Section 35400 of the Vehicle Code is amended to*  
2     *read:*

3     35400. (a) No vehicle shall exceed a length of 40 feet.

4     (b) This section does not apply to any of the following:

5     (1) A vehicle used in a combination of vehicles when the excess  
6     length is caused by auxiliary parts, equipment, or machinery not  
7     used as space to carry any part of the load, except that the  
8     combination of vehicles shall not exceed the length provided for  
9     combination vehicles.

10    (2) A vehicle, when the excess length is caused by any parts  
11    necessary to comply with the fender and mudguard regulations of  
12    this code.

13    (3) (A) An articulated bus or articulated trolley coach that does  
14    not exceed a length of 60 feet.

15    (B) An articulated bus or articulated trolley coach described in  
16    subparagraph (A) may be equipped with a folding device attached  
17    to the front of the bus or trolley if the device is designed and used  
18    exclusively for transporting bicycles. The device, including any  
19    bicycles transported thereon, shall be mounted in a manner that  
20    does not materially affect efficiency or visibility of vehicle safety  
21    equipment, and shall not extend more than 36 inches from the front  
22    body of the bus or trolley coach when fully deployed. The  
23    handlebars of a bicycle that is transported on a device described in  
24    this subparagraph shall not extend more than 42 inches from the  
25    front of the bus.

26    (4) A semitrailer while being towed by a motortruck or truck  
27    tractor, if the distance from the kingpin to the rearmost axle of the  
28    semitrailer does not exceed 40 feet for semitrailers having two or  
29    more axles, or 38 feet for semitrailers having one axle if the  
30    semitrailer does not, exclusive of attachments, extend forward of  
31    the rear of the cab of the motortruck or truck tractor.

32    (5) A bus or house car when the excess length is caused by the  
33    projection of a front safety bumper or a rear safety bumper, or both.  
34    The safety bumper shall not cause the length of the vehicle to  
35    exceed the maximum legal limit by more than one foot in the front  
36    and one foot in the rear. For the purposes of this chapter, “safety  
37    bumper” means any device that is fitted on an existing bumper or  
38    which replaces the bumper and is constructed, treated, or  
39    manufactured to absorb energy upon impact.

1 (6) A schoolbus, when the excess length is caused by the  
 2 projection of a crossing control arm. For the purposes of this  
 3 chapter, “crossing control arm” means an extendable and  
 4 retractable device fitted to the front of a schoolbus that is designed  
 5 to impede movement of pupils exiting the schoolbus directly in  
 6 front of the schoolbus so that pupils are visible to the driver while  
 7 they are moving in front of the schoolbus. An operator of a  
 8 schoolbus shall not extend a crossing control arm while the  
 9 schoolbus is in motion. Except when activated, a crossing control  
 10 arm shall not cause the maximum length of the schoolbus to be  
 11 extended by more than 10 inches, inclusive of any front safety  
 12 bumper. Use of a crossing control arm by the operator of a  
 13 schoolbus does not, in and of itself, fulfill his or her responsibility  
 14 to ensure the safety of students crossing a highway or private road  
 15 pursuant to Section 22112.

16 (7) A bus, when the excess length is caused by a device, located  
 17 in front of the front axle, for lifting wheelchairs into the bus. That  
 18 device shall not cause the length of the bus to be extended by more  
 19 than 18 inches, inclusive of any front safety bumper.

20 (8) A bus, when the excess length is caused by a device attached  
 21 to the rear of the bus designed and used exclusively for the  
 22 transporting of bicycles. This device may be up to 10 feet in length,  
 23 if the device, along with any other device permitted pursuant to  
 24 this section, does not cause the total length of the bus, including  
 25 any device or load, to exceed 50 feet.

26 (9) A bus operated by a public agency or a passenger stage  
 27 corporation, as defined in Section 226 of the Public Utilities Code,  
 28 used in transit system service, other than a schoolbus, when the  
 29 excess length is caused by a folding device attached to the front of  
 30 the bus which is designed and used exclusively for transporting  
 31 bicycles. The device, including any bicycles transported thereon,  
 32 shall be mounted in a manner that does not materially affect  
 33 efficiency or visibility of vehicle safety equipment, and shall not  
 34 extend more than 36 inches from the front body of the bus when  
 35 fully deployed. The handlebars of a bicycle that is transported on  
 36 a device described in this paragraph shall not extend more than 42  
 37 inches from the front of the bus. A device described in this  
 38 paragraph may not be used on any bus which, exclusive of the  
 39 device, exceeds 40 feet in length or on any bus having a device  
 40 attached to the rear of the bus pursuant to paragraph ~~(7)~~ (8).

1 (10) A bus of a length of up to 45 feet when operating on those  
2 highways specified in subdivision (a) of Section 35401.5. The  
3 Department of Transportation or local authorities, with respect to  
4 highways under their respective jurisdictions, shall not deny  
5 reasonable access to a bus of a length of up to 45 feet between the  
6 highways specified in subdivision (a) of Section 35401.5 and  
7 points of loading and unloading for motor carriers of passengers  
8 as required by the federal Intermodal Surface Transportation  
9 Efficiency Act of 1991 (P.L. 102-240).

10 (11) (A) A house car of a length of up to 45 feet when operating  
11 on the National System of Interstate and Defense Highways or  
12 when using those portions of federal aid primary system highways  
13 that have been qualified by the United States Secretary of  
14 Transportation for that use, or when using routes appropriately  
15 identified by the Department of Transportation or local  
16 authorities, with respect to highways under their respective  
17 jurisdictions.

18 (B) A house car described in subparagraph (A) may be operated  
19 on a highway that provides reasonable access to facilities for  
20 purposes limited to fuel, food, and lodging when that access is  
21 consistent with the safe operation of the vehicle and when the  
22 facility is within one road mile of identified points of ingress and  
23 egress to or from highways specified in subparagraph (A) for use  
24 by that vehicle.

25 (C) As used in this paragraph and paragraph (10), “reasonable  
26 access” means access substantially similar to that authorized for  
27 combinations of vehicles pursuant to subdivision (c) of Section  
28 35401.5.

29 (D) Any access route established by a local authority pursuant  
30 to subdivision (d) of Section 35401.5 is open for access by a house  
31 car of a length of up to 45 feet. In addition, local authorities may  
32 establish a process whereby access to services by house cars of a  
33 length of up to 45 feet may be applied for upon a route not  
34 previously established as an access route. The denial of a request  
35 for access to services shall be only on the basis of safety and an  
36 engineering analysis of the proposed access route. In lieu of  
37 processing an access application, local authorities, with respect to  
38 highways under their jurisdiction, may provide signing, mapping,  
39 or a listing of highways, as necessary, to indicate the use of these  
40 specific routes by a house car of a length of up to 45 feet.





(c) The Legislature, by increasing the maximum permissible kingpin to rearmost axle distance to 40 feet effective January 1, 1987, as provided in paragraph (4) of subdivision (b), does not intend this action to be considered a precedent for any future increases in truck size and length limitations.

(d) Any transit bus equipped with a folding device installed on or after January 1, 1999, that is permitted under subparagraph (B) of paragraph (3) of subdivision (b) or under paragraph (9) of subdivision (b) shall be additionally equipped with any of the following:

(1) An indicator light that is visible to the driver and is activated whenever the folding device is in an extended position.

(2) Any other device or mechanism that provides notice to the driver that the folding device is in an extended position.

(3) A mechanism that causes the folding device to retract automatically from an extended position.

(e) (1) No person shall improperly or unsafely mount a bicycle on a device described in subparagraph (B) of paragraph (3) of subdivision (b), or in paragraph (9) of subdivision (b).

(2) Notwithstanding subdivision (a) of Section 23114 or subdivision (a) of Section 24002 or any other provision of law, when a bicycle is improperly or unsafely loaded by a passenger onto a transit bus, the passenger, and not the driver, is liable for any violation of this code that is attributable to the improper or unlawful loading of the bicycle.

*SEC. 31. Section 305.5 of the Welfare and Institutions Code, as added by Chapter 920 of the Statutes of 2002, is amended and renumbered to read:*

~~305.5.~~

305.3. (a) Any peace officer may, without a warrant, take into temporary custody a minor who is in a hospital if the release of the minor to a prospective adoptive parent poses an immediate danger to the minor's health or safety.

(b) (1) Notwithstanding subdivision (a) and Section 305, a peace officer may not, without a warrant, take into temporary custody a minor who is in a hospital if all of the following conditions exist:

(A) The minor is a newborn who tested positive for illegal drugs or whose birth mother tested positive for illegal drugs.

1 (B) The minor is the subject of a petition for adoption and an  
2 adoption placement agreement signed by the placing birth parent  
3 or birth parents and filed with the court.

4 (C) The release of the minor to a prospective adoptive parent  
5 or parents does not pose an immediate danger to the minor.

6 (2) The prospective adoptive parents or their representative  
7 shall provide a copy of the filed petition for adoption and signed  
8 adoption placement agreement to the local child protective  
9 services agency or to the peace officer who is at the hospital to take  
10 the minor into temporary custody.

11 *SEC. 32. Section 355 of the Welfare and Institutions Code is*  
12 *amended to read:*

13 355. (a) At the jurisdictional hearing, the court shall first  
14 consider only the question whether the minor is a person described  
15 by Section 300. Any legally admissible evidence that is relevant  
16 to the circumstances or acts that are alleged to bring the minor  
17 within the jurisdiction of the juvenile court is admissible and may  
18 be received in evidence. Proof by a preponderance of evidence  
19 must be adduced to support a finding that the minor is a person  
20 described by Section 300. Objections that could have been made  
21 to evidence introduced shall be deemed to have been made by any  
22 parent or guardian who is present at the hearing and unrepresented  
23 by counsel, unless the court finds that the parent or guardian has  
24 made a knowing and intelligent waiver of the right to counsel.  
25 Objections that could have been made to evidence introduced shall  
26 be deemed to have been made by any unrepresented child.

27 (b) A social study prepared by the petitioning agency, and  
28 hearsay evidence contained in it, is admissible and constitutes  
29 competent evidence upon which a finding of jurisdiction pursuant  
30 to Section 300 may be based, to the extent allowed by subdivisions  
31 (c) and (d).

32 (1) For the purposes of this section, “social study” means any  
33 written report furnished to the juvenile court and to all parties or  
34 their counsel by the county probation or welfare department in any  
35 matter involving the custody, status, or welfare of a minor in a  
36 dependency proceeding pursuant to Article 6 (commencing with  
37 Section 300) to 12 (commencing with Section 385), inclusive of  
38 Chapter 2 of Division 2.

39 (2) The preparer of the social study shall be made available for  
40 cross-examination upon a timely request by any party. The court

1 may deem the preparer available for cross-examination if it  
2 determines that the preparer is on telephone standby and can be  
3 present in court within a reasonable time of the request.

4 (3) The court may grant a reasonable continuance not to exceed  
5 10 days upon request by any party if the social study is not  
6 provided to the parties or their counsel within a reasonable time  
7 before the hearing.

8 (c) (1) If any party to the jurisdictional hearing raises a timely  
9 objection to the admission of specific hearsay evidence contained  
10 in a social study, the specific hearsay evidence shall not be  
11 sufficient by itself to support a jurisdictional finding or any  
12 ultimate fact upon which a jurisdictional finding is based, unless  
13 the petitioner establishes one or more of the following exceptions:

14 (A) The hearsay evidence would be admissible in any civil or  
15 criminal proceeding under any statutory or decisional exception to  
16 the prohibition against hearsay.

17 (B) The hearsay declarant is a minor under the age of 12 years  
18 who is the subject of the jurisdictional hearing. However, the  
19 hearsay statement of a minor under the age of 12 years shall not be  
20 admissible if the objecting party establishes that the statement is  
21 unreliable because it was the product of fraud, deceit, or undue  
22 influence.

23 (C) The hearsay declarant is a peace officer as defined by  
24 Chapter 4.5 (commencing with Section 830) of Part 2 of Title 3 of  
25 the Penal Code, a health practitioner as defined by ~~Section 11165.8~~  
26 *paragraphs (21) to (28), inclusive, of subdivision (a) of Section*  
27 *11165.7* of the Penal Code, a social worker licensed pursuant to  
28 Chapter 14 (commencing with Section 4996) of Division 2 of the  
29 Business and Professions Code, or a teacher who holds a credential  
30 pursuant to Chapter 2 (commencing with Section 44200) of Part  
31 24 of Division 3 of Title 2 of the Education Code. For the purpose  
32 of this subdivision, evidence in a declaration is admissible only to  
33 the extent that it would otherwise be admissible under this section  
34 or if the declarant were present and testifying in court.

35 (D) The hearsay declarant is available for cross-examination.  
36 For purposes of this section, the court may deem a witness  
37 available for cross-examination if it determines that the witness is  
38 on telephone standby and can be present in court within a  
39 reasonable time of a request to examine the witness.

(2) For purposes of this subdivision, an objection is timely if it identifies with reasonable specificity the disputed hearsay evidence and it gives the petitioner a reasonable period of time to meet the objection prior to a contested hearing.

(d) This section shall not be construed to limit the right of any party to the jurisdictional hearing to subpoena a witness whose statement is contained in the social study or to introduce admissible evidence relevant to the weight of the hearsay evidence or the credibility of the hearsay declarant.

*SEC. 33. Section 387 of the Welfare and Institutions Code is amended to read:*

387. An order changing or modifying a previous order by removing a child from the physical custody of a parent, guardian, relative, or friend and directing placement in a foster home, or commitment to a private or county institution, shall be made only after noticed hearing upon a supplemental petition.

(a) The supplemental petition shall be filed by the social worker in the original matter and shall contain a concise statement of facts sufficient to support the conclusion that the previous disposition has not been effective in the rehabilitation or protection of the child or, in the case of a placement with a relative, sufficient to show that the placement is not appropriate in view of the criteria in Section 361.3.

(b) Upon the filing of the supplemental petition, the clerk of the juvenile court shall immediately set the same for hearing within 30 days, and the social worker shall cause notice thereof to be served upon the persons and in the manner prescribed by Sections ~~290~~ 290.1 and 291.

(c) An order for the detention of the child pending adjudication of the petition may be made only after a hearing is conducted pursuant to Article 7 (commencing with Section 305).

*SEC. 34. Section 15763 of the Welfare and Institutions Code is amended to read:*

15763. (a) Each county shall establish an emergency response adult protective services program that shall provide in-person response, 24 hours per day, seven days per week, to reports of abuse of an elder or a dependent adult, for the purpose of providing immediate intake or intervention, or both, to new reports involving immediate life threats and to crises in existing

1 cases. The program shall include policies and procedures to  
2 accomplish all of the following:

3 (1) Provision of case management services that include  
4 investigation of the protection issues, assessment of the person's  
5 concerns, needs, strengths, problems, and limitations, stabilization  
6 and linking with community services, and development of a  
7 service plan to alleviate identified problems utilizing counseling,  
8 monitoring, followup, and reassessment.

9 (2) Provisions for emergency shelter or in-home protection to  
10 guarantee a safe place for the elder or dependent adult to stay until  
11 the dangers at home can be resolved.

12 (3) Establishment of multidisciplinary teams to develop  
13 interagency treatment strategies, to ensure maximum coordination  
14 with existing community resources, to ensure maximum access on  
15 behalf of elders and dependent adults, and to avoid duplication of  
16 efforts.

17 (b) (1) A county shall respond immediately to any report of  
18 imminent danger to an elder or dependent adult residing in other  
19 than a long-term care facility, as defined in Section 9701 of the  
20 Welfare and Institutions Code, or a residential facility, as defined  
21 in Section 1502 of the Health and Safety Code. For reports  
22 involving persons residing in a long-term care facility or a  
23 residential care facility, the county shall report to the local  
24 long-term care ombudsman program. Adult protective services  
25 staff shall consult, coordinate, and support efforts of the  
26 ombudsman program to protect vulnerable residents. Except as  
27 specified in paragraph (2), the county shall respond to all other  
28 reports of danger to an elder or dependent adult in other than a  
29 long-term care facility or residential care facility within 10  
30 calendar days or as soon as practicably possible.

31 (2) An immediate or 10-day in-person response is not required  
32 when the county, based upon an evaluation of risk, determines and  
33 documents that the elder or dependent adult is not in imminent  
34 danger and that an immediate or 10-day in-person response is not  
35 necessary to protect the health or safety of the elder or dependent  
36 adult.

37 (3) The State Department of Social Services, in consultation  
38 with the County Welfare Directors Association, shall develop  
39 requirements for implementation of paragraph (2), including, but

1 not limited to, guidelines for determining appropriate application  
2 of this section and any applicable documentation requirements.

3 (4) Notwithstanding Chapter 3.5 (commencing with Section  
4 11340) of Part 1 of Division 3 of Title 2 of the Government Code,  
5 the department shall implement the requirements developed  
6 pursuant to paragraph (3) by means of all-county letters or similar  
7 instructions prior to adopting regulations for that purpose.  
8 Thereafter, the department shall adopt regulations in accordance  
9 with the requirements of Chapter 3.5 (commencing with Section  
10 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

11 (c) A county shall not be required to report or respond to a  
12 report pursuant to subdivision (b) that involves danger to an elder  
13 or dependent adult residing in any facility for the incarceration of  
14 prisoners that is operated by or under contract to the Federal  
15 Bureau of Prisons, the Department of Corrections, the California  
16 Department of the Youth Authority, a county sheriff's department,  
17 a city police department, or any other law enforcement agency  
18 when the abuse reportedly has occurred in that facility.

19 (d) A county shall provide case management services to elders  
20 and dependent adults who are determined to be in need of adult  
21 protective services for the purpose of bringing about changes in the  
22 lives of victims and to provide a safety net to enable victims to  
23 protect themselves in the future. Case management services shall  
24 include the following, to the extent services are appropriate for the  
25 individual:

26 (1) Investigation of the protection issues, including, but not  
27 limited to, social, medical, environmental, physical, emotional,  
28 and developmental.

29 (2) Assessment of the person's concerns and needs on whom  
30 the report has been made and the concerns and needs of other  
31 members of the family and household.

32 (3) Analysis of problems and strengths.

33 (4) Establishment of a service plan for each person on whom  
34 the report has been made to alleviate the identified problems.

35 (5) Client input and acceptance of proposed service plans.

36 (6) Counseling for clients and significant others to alleviate the  
37 identified problems and to implement the service plan.

38 (7) Stabilizing and linking with community services.

39 (8) Monitoring and followup.

40 (9) Reassessments, as appropriate.

1 (e) To the extent resources are available, each county shall  
2 provide emergency shelter in the form of a safe haven or in-home  
3 protection for victims. Shelter and care appropriate to the needs of  
4 the victim shall be provided for frail and disabled victims who are  
5 in need of assistance with activities of daily living.

6 (f) Each county shall designate an adult protective services  
7 agency to establish and maintain multidisciplinary teams  
8 including, but not limited to, adult protective services, law  
9 enforcement, home health care agencies, hospitals, adult  
10 protective services staff, the public guardian, private community  
11 service agencies, public health agencies, and mental health  
12 agencies for the purpose of providing interagency treatment  
13 strategies.

14 (g) Each county shall provide tangible support services, to the  
15 extent resources are available, which may include, but not be  
16 limited to, emergency food, clothing, repair or replacement of  
17 essential appliances, plumbing and electrical repair, blankets,  
18 linens, and other household goods, advocacy with utility  
19 companies, and emergency response units.

20 ~~SEC. 16.~~

21 *SEC. 35.* Any section of any act enacted by the Legislature  
22 during the 2003 calendar year that takes effect on or before January  
23 1, 2004, and that amends, amends and renumbers, adds, repeals  
24 and adds, or repeals any one or more of the sections affected by this  
25 act, with the exception of Senate Bill 600, shall prevail over this  
26 act, whether that act is enacted prior to, or subsequent to, the  
27 enactment of this act. The repeal, or repeal and addition, of any  
28 article, chapter, part, title, or division of any code by this act shall  
29 not become operative if any section of any other act that is enacted  
30 by the Legislature during the 2003 calendar year and takes effect  
31 on or before January 1, 2004, amends, amends and renumbers,  
32 adds, repeals and adds, or repeals any section contained in that  
33 article, chapter, part, title, or division.

